

# **OREGON WATER LAWS**

## **Volume II of II**

### **Oregon Laws Relating to Water Users' Organizations**

Reprinted from the 2017 Edition  
of  
Oregon Revised Statutes

Oregon Water Laws, a compilation of statutes relating exclusively to water law, has been published since 1911. This two-volume set contains all of Oregon water law compiled under Title 45 of the 2017 Edition of Oregon Revised Statutes. The set is not a complete collection of all Oregon statutes that might deal, however remotely, with water. At the back of Volume I, we have included portions of the 2017 ORS General Index that cite many references to water that appear in statute.

Volume I, Oregon Water Laws, contains the bulk of Oregon law that is administered by the Water Resources Department. This volume includes statutes relating to water management, such as appropriation and distribution of water.

Volume II, Oregon Laws Relating to Water Users' Organizations, contains the Oregon Revised Statutes Title 45 laws relating to organizations, such as irrigation and water control districts.

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# Chapter 545

2017 EDITION

## Irrigation Districts

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## IRRIGATION DISTRICTS

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**GENERAL PROVISIONS**

**545.001 Short title.** This chapter may be referred to as the Irrigation District Law. [1995 c.42 §1]

**545.002 Definitions.** As used in this chapter:

(1) "Board" or "board of directors" means the governing body of a district.

(2) "District" means an irrigation district organized or operating under this chapter.

(3) "Owner of land" or "elector" includes every person 18 years of age or older, whether a resident of the district or state or not, who is an owner or a vendee under a contract of purchase of land situated within the district and subject to the charges or assessments of the district. [Amended by 1993 c.771 §3; 1995 c.42 §2]

**545.004** [Amended by 1967 c.503 §1; 1993 c.771 §4; 1995 c.42 §4; renumbered 545.025 in 1995]

**545.006** [Amended by 1993 c.771 §5; 1995 c.42 §5; renumbered 545.029 in 1995]

**545.007 Voting rights.** (1) In any matter requiring or allowing a vote of the owners of land or the electors of a district:

(a) If ownership is in estates by the entirety, tenants in common, or in other cases of multiple ownership, only one vote shall be allowed on behalf of all the owners under each multiple ownership. The vote may be cast by any one of the multiple owners. When two or more persons attempt to cast a vote under this paragraph, only the vote of the person who first casts a vote shall be counted.

(b) Any corporation may vote as a single owner of land through any officer or agent when the officer or agent is authorized to vote by the corporation and the written authorization is filed with the secretary of the board of directors of the district.

(c) Any general partnership, limited partnership or limited liability company may vote as a single owner of land through any general partner, member or agent when the general partner, member or agent is authorized to vote by the entity and written evidence of the authority of the general partner, member or agent is filed with the secretary of the board of directors of the district.

(d) Any trustee of a trust, guardian, administrator or executor authorized to act as such of a person or estate owning land within the district shall be considered an owner of land for the purposes of the Irrigation District Law, when the owner in fee is not otherwise entitled to vote.

(e) An owner of land or elector may vote according to the total amount of acreage within the district owned by the owner or

elector that is subject to the charges or assessments of the district on the basis of:

(A) One vote for up to 40 acres;

(B) Two votes for 40 acres or more but not more than 160 acres; and

(C) Three votes for more than 160 acres.

(f) When a district is divided into divisions under ORS 545.033 or 545.207 and voting is by the qualified electors within a division for a director from that division, an elector who is permitted under ORS 545.207 to vote in that division may cast the number of votes under subsection (1)(e) of this section that represents the total amount of eligible acreage owned by the elector within the whole district.

(2) The weighted voting provisions of subsection (1)(e) of this section do not apply in an election for the formation of a district and for its initial board of directors under ORS 545.041 and 545.043 (1). In such an election, each owner of land is entitled to cast one vote. [1995 c.42 §3; 1995 c.754 §3; 1999 c.452 §4]

**545.008** [Amended by 1995 c.42 §6; renumbered 545.033 in 1995]

**545.010** [Amended by 1967 c.503 §2; 1991 c.249 §54; 1993 c.771 §6; 1995 c.42 §7; renumbered 545.037 in 1995]

**545.012** [Amended by 1993 c.771 §7; 1995 c.42 §8; 1995 c.754 §4; renumbered 545.041 in 1995]

**545.014** [Amended by 1969 c.669 §13; 1989 c.182 §6; 1995 c.42 §9; renumbered 545.043 in 1995]

**545.016** [Amended by 1969 c.345 §12; repealed by 1989 c.182 §49]

**545.018** [Amended by 1959 c.348 §1; 1993 c.771 §8; 1995 c.42 §44; renumbered 545.199 in 1995]

**545.020** [Amended by 1995 c.42 §45; renumbered 545.203 in 1995]

**545.022** [Amended by 1953 c.233 §2; 1993 c.771 §9; 1995 c.42 §46; renumbered 545.207 in 1995]

**545.024** [Amended by 1995 c.42 §47; renumbered 545.211 in 1995]

**FORMATION OF DISTRICTS**

**545.025 Purposes of irrigation district; process for formation.** (1) When owners of land that is irrigated or susceptible to irrigation desire to provide for the construction of works for irrigation of their land, to provide for the reconstruction, betterment, extension, purchase, operation or maintenance of works already constructed, or to provide for the assumption of indebtedness to the United States incurred under the federal reclamation laws on account of their lands, they may propose the organization of an irrigation district under the Irrigation District Law by signing a petition and filing it with the county court of the principal county, as defined in ORS 198.705. The petition must be signed by a majority of the owners of land or 50 owners of land within the exterior boundaries of the proposed district.

(2) The petition shall set forth:

(a) A statement that the petition is filed for the formation of an irrigation district under the Irrigation District Law;

(b) The name of the proposed district;

(c) A description of the exterior boundaries of the proposed district. The description may be by metes and bounds, quarter quarter section lines or assessor's map and tax lot numbers;

(d) A statement declaring whether the district board of directors shall consist of three or five members and, if three members, whether the district shall be subdivided for the election of directors or whether directors shall be elected at large; and

(e) A request that proceedings be taken for the formation of the district.

(3) ORS 198.760, 198.765, 198.770 and 198.775 apply to petitions for the formation of an irrigation district, except that an economic feasibility statement is not required.

(4) The circulator shall certify on each signature sheet that the circulator witnessed the signing of the signature sheet by each individual whose signature appears on the signature sheet.

(5) A description and map of all of the lands that are included within the proposed district and that will be subject to the charges and assessments of the district, together with the names and mailing addresses of all of the owners of the lands, shall be included in the petition or attached to the petition as an exhibit. Reference to the assessor's map and tax lot number is sufficient for the description of lands required under this subsection.

(6) When the petition for formation is filed with the county court of the principal county, the county court shall set a date for a hearing on the petition. The date set for the hearing shall be not less than 30 days nor more than 50 days after the date on which the petition is filed. The county court shall cause notice of the hearing to be posted in at least three public places in the county and published by two insertions in a newspaper. The notice shall state:

(a) The purpose for which the district is to be formed.

(b) The name and boundaries of the proposed district.

(c) The time and place for the hearing on the petition.

(d) That all interested persons may appear and be heard.

(7) If the petition is signed by all of the owners of all of the lands that are included within the proposed district and that will be

subject to the charges and assessments of the proposed district, publication of the notice of the hearing on the petition is not required. A petition signed by all of the owners of all of the lands that are included within the proposed district and that will be subject to the charges and assessments of the proposed district may also contain the names of persons desired as the members of the first board of directors of the proposed district, the initial term of office of each director and a written statement from each of those persons in which the person agrees to serve as a director of the proposed district.

(8) If an elector is not a resident of the district or this state, a legal representative of the owner of land, including an individual acting pursuant to a power of attorney, may sign a formation petition for and on behalf of the owner. [Formerly 545.004; 1999 c.318 §32; 1999 c.452 §5; 2007 c.848 §27]

**545.026** [Amended by 1993 c.771 §10; 1995 c.42 §31; 1995 c.754 §5; renumbered 545.137 in 1995]

**545.028** [Amended by 1967 c.609 §5; 1979 c.190 §427; 1995 c.42 §32; renumbered 545.139 in 1995]

**545.029 Hearing of petition by county court; authority as to boundaries of district; lands included; order; formation of district without election.** (1) When the petition for formation of an irrigation district is filed, the county court shall hold the hearing required under ORS 545.025 (6). The county court may adjourn the hearing from time to time, but the hearing shall not be extended over a period exceeding four weeks. At the end of the hearing, the county court may make such changes in the proposed boundaries as the court may find proper, and shall establish and define the boundaries, subject to the following:

(a) An irrigation district may not include land that is located within a city or platted subdivision and that is chiefly available for residence purposes. The restriction imposed by this paragraph is expressly limited to residence property, and all lands, whether wholly or partially within any city or platted subdivision, used or suitable for agricultural or horticultural purposes and not platted in tracts of less than one acre, may be included in a district. However, if an irrigation district is formed as a successor district to another water supply entity and if that entity provides water for irrigation to land within any city or platted subdivision, the restriction imposed by this paragraph does not apply to such land that is served by the water supply entity at the time of formation of the irrigation district.

(b) The county court shall not modify the boundaries so as to exclude any territory within the boundaries of the district proposed by the petitioners that is susceptible

to irrigation by the same system of works applicable to other lands in the proposed district.

(c) In the discretion of the county court, an owner of land that is susceptible to irrigation from the same system of works may, upon written application of the owner, have the land included in the district.

(2) At the end of the hearing, the county court shall make and enter an order determining whether the requisite number of owners of the land within the proposed district have petitioned for its formation, and whether the notice required under ORS 545.025 (6) has been duly published.

(3) If the county court finds that the petition is signed by all of the owners of all of the lands that are included within the proposed district and that will be subject to the charges and assessments of the proposed district and if the only modifications of district boundaries are at the request of owners of land seeking inclusion under subsection (1)(c) of this section, the county court shall enter an order creating the district and the election otherwise required by ORS 545.037 shall not be held. If the petition for formation also names persons desired as members of the first board of directors of the district and those persons have agreed in writing to serve as directors, the order shall declare those persons to be the directors of the district. [Formerly 545.006]

**545.030** [Amended by 1993 c.771 §11; 1995 c.42 §33; 1995 c.607 §85; 1995 c.754 §6; renumbered 545.141 in 1995]

**545.032** [Amended by 1995 c.42 §34; 1995 c.754 §7; renumbered 545.145 in 1995]

**545.033 Naming and division of districts.** (1) The order of the county court shall designate the name of the district. The name of the district may be changed by the county court at any time thereafter upon petition of the board of directors of the district accompanied by either the consent, in writing, of a majority of the owners of lands within the district or by the certificate of the secretary of the district certifying that, at a regular or special election called and held in the district for any purpose provided by law, the proposed change of name was approved by a majority of the electors voting upon the question of change of name. The secretary of the district shall cause a certified copy of the order to be recorded in the office of the county clerk of the county or counties in which the district is located.

(2) If the petition provides for a five-member board of directors or provides for a three-member board of directors for a subdivided district, the county court shall divide the district into the required number of divisions. Each division shall be as nearly equal as practicable in the number of acres that

will be subject to the charges or assessments of the district. The county court shall define and particularly describe division boundaries and make use, insofar as may be desirable, of any natural boundaries that may exist in the district. The divisions shall be numbered. [Formerly 545.008; 1999 c.452 §6]

**545.034** [Amended by 1995 c.42 §35; renumbered 545.149 in 1995]

**545.036** [Amended by 1995 c.42 §36; renumbered 545.153 in 1995]

**545.037 Notice of election for determining organization of district; contents; publication; mailing.** (1) Except when an election is not required as provided in ORS 545.029 (3), the county court shall give notice of an election to be held in the proposed district for the purpose of determining whether or not the district shall be organized under the Irrigation District Law and for the purpose of electing an initial board of directors. The notice shall describe the boundaries established for the district. However, if the county court, in the order defining the boundaries, orders that they need not be described in the notice, the notice shall refer to and incorporate by reference the boundaries established by the order of the county court under ORS 545.029 and on file in the office of the county clerk of the county in which the district is located. The notice shall designate the name of the proposed district, state the date of the election, the board positions to be voted upon and the latest date on which candidates for election as board members may file petitions for nomination. The notice shall be published once each week, commencing not later than the 50th day before the election, for at least four consecutive weeks in a newspaper of general circulation in the county. If any portion of the district lies within another county, then the notice shall be published in a newspaper of general circulation in each county in the same time and manner. The notice shall require the electors to cast ballots which contain the words "Irrigation District — Yes," and "Irrigation District — No," or equivalent words. During the period in which the notice is published, the county clerk shall send a copy of the notice by registered mail or by certified mail with return receipt to each owner of land identified in the petition for formation under ORS 545.025 (5) who has not joined in the petition for organization of the district. The provisions of this subsection relating to mailing notices are directory and not jurisdictional.

(2) In lieu of including a description of the lands within a district or the boundaries of a district in the notice of election, the county court or board of directors calling an election in an irrigation district may direct that the notice refer to the order calling the

election and incorporate by reference the description of the district boundaries contained in the order. [Formerly 545.010; 1999 c.452 §7]

**545.038** [Amended by 1979 c.562 §18; 1995 c.42 §37; renumbered 545.156 in 1995]

**545.040** [Repealed by 1995 c.42 §184]

**545.041 Conduct of election; contents of nominating petition; verification of electors by county assessor; order declaring result; inclusion of portion of district in another district; commencement of duties by directors.** (1) The election shall be conducted, as nearly as practicable, in accordance with the general election laws of the state, except that the provisions of the election laws as to the form of ballot and as to the nomination of candidates shall not apply. No particular form of ballot shall be required. An absent elector may obtain a ballot and vote, as nearly as practicable, in the manner provided for absent electors in ORS chapter 253.

(2)(a) Nominations for candidates for the board of directors may be made by petition, signed by at least 10 electors in the proposed district or division who are qualified to vote for the directors nominated by them. Nominations may also be made at an assembly of not less than 25 electors.

(b) Not more than one of the electors of a multiple ownership as described in ORS 545.007 (1)(a) may sign a nominating petition or vote at an assembly. Nominations by petition or by assembly shall be filed with the county assessor before they are filed with the county clerk under this subsection. If a nomination is made at an assembly, the nomination shall be filed under this paragraph with a list of the names and addresses of the electors who voted at the assembly. The county assessor shall verify that not more than one of the electors of a multiple ownership as described in ORS 545.007 (1)(a) has signed a nominating petition or voted at an assembly. The county assessor shall provide written confirmation of the assessor's verification to the person filing the nomination.

(c) Nominations by petition or by assembly shall be filed with the county clerk at least 35 days next preceding the date of election. The nomination shall be accompanied by a copy of the written confirmation of verification provided by the county assessor under this subsection.

(d) The county clerk shall have the names of all persons nominated placed on the ballots as candidates for the offices for which they have been nominated. The ballots shall have a blank line under the printed names, on which may be written the name of any candidate voted for.

(3) A nominating petition shall contain:

(a) The name by which a candidate is commonly known. The candidate may use a nickname in parentheses in connection with the candidate's full name;

(b) The address information of the candidate;

(c) The office for which the candidate seeks nomination;

(d) The term of office for which the candidate seeks nomination;

(e) A statement that the candidate is qualified for the office;

(f) A statement that the candidate is willing to accept the nomination and, if elected, the office;

(g) The signature of the candidate;

(h) The printed name and address of each elector who signed the petition; and

(i) A statement by the circulator of the petition that the circulator is personally acquainted with the electors who signed the petition and affirms that the signatures are genuine.

(4) If an elector is not shown as an owner of land on the last equalized assessment roll or is not shown as having authority to vote on behalf of an owner of land, the elector shall furnish the county clerk with written evidence, satisfactory to the county clerk, that the elector:

(a) Is a legal representative of the owner;

(b) Is entitled to be shown as the owner of land on the next assessment roll;

(c) Is a purchaser of land under a written agreement of sale; or

(d) Is authorized to sign for and on behalf of any public agency owning land.

(5) The county court shall meet on the first Monday that is at least 10 days after the election, canvass the votes cast, and enter an order declaring the result of the election. If upon the canvass it appears that at least three-fifths of the votes cast are "Irrigation District — Yes," the court shall, by an order entered on its minutes, declare the territory organized as an irrigation district under the name designated by the county court under ORS 545.033 (1), and shall declare the persons receiving, respectively, the highest number of votes for the several available director positions to be elected to those positions. The court shall cause a copy of the order, duly certified, to be immediately filed for record in the office of the county clerk of each county in which any portion of the district is situated.

(6) After the date of organization of an irrigation district, the county court of any

county including any portion of the district shall not allow another district to be formed that includes any lands in the existing district, without first securing consent for the formation from the existing district.

(7) From and after the date of the filing of the order under subsection (1) of this section, the organization of the district is complete, and the directors may enter upon the duties of their offices upon qualifying as provided by law. They shall hold office until their successors are elected and qualified. [Formerly 545.012; 2001 c.257 §1; 2003 c.94 §1; 2013 c.520 §21]

**545.043 Qualifications of directors; terms of office; oath.** (1) At the election for the organization of an irrigation district one director, who is a resident of Oregon and a bona fide owner, or a shareholder of a bona fide corporate owner, of land situated in the division, shall be elected from each division into which the district has been divided by the county court. If no division has been made, the directors shall be elected from the district at large. Terms of the directors so elected shall expire in one, two and three years, respectively, from the first Tuesday in January next succeeding their election. Their respective terms shall be decided by lot.

(2) Within 10 days after receiving the certificate of election provided for in ORS 545.153, the director shall take the official oath and file it in the office of the board of directors. [Formerly 545.014]

**545.045** [1993 c.771 §2; 1995 c.42 §38; 1995 c.607 §86; renumbered 545.163 in 1995]

## CHANGE OF DISTRICT BOUNDARIES (Generally)

**545.051 Change of boundaries authorized; effect on existing rights and liabilities.** The boundaries of any irrigation district organized under the Irrigation District Law may be changed in the manner prescribed in ORS 545.051 to 545.126. However, a change in the boundaries of a district shall not impair or affect its organization, its right in or to property or any of its other rights or privileges of whatever kind or nature. The change in the boundaries of a district shall not affect, impair or discharge any contract, obligation, lien or charge for or upon which the district was liable or chargeable had such change of its boundaries not been made. [Formerly 545.582]

### (Addition of Land)

**545.057 Petition for inclusion of lands within district.** The holders of title, or evidence of title, representing a majority of the acreage of any body of land adjacent to the

boundaries of any irrigation district may file with the board of directors of the district a written petition requesting that the body of land be included in the district. For purposes of this section, the body of land may include or consist of one or more parcels of less than one acre, without regard to whether or not the parcels are city lots or tracts of a platted subdivision or are chiefly available for residence purposes. When the body of land is located within the boundary of a city, the petition shall be approved by the governing body of the city before presentation to the board of directors. The petition shall describe the tracts or body of land owned by the petitioners. Reference to the assessor's map and tax lot number is sufficient for the description of lands required under this section. The petition shall give assent of the petitioners to the inclusion into the district of the lands described in the petition. The petition must be acknowledged in the same manner that conveyances of land are required to be acknowledged. [Formerly 545.584; 1999 c.452 §8; 2003 c.802 §132]

**545.059 Notice of petition; publication; deposit for costs.** The secretary of the board of directors shall cause notice of the filing of the petition to be given and published once each week, for three successive weeks, in a newspaper published in the county where the office of the board is situated. The notice shall state the filing of the petition, the names of the petitioners, a description of the lands mentioned in the petition, and the request of the petitioners. The notice shall also contain a statement indicating that all interested persons may appear at the office of the board at the time named in the notice and show cause why the petition should not be granted. The time specified in the notice shall be the time of the next regular meeting of the board after the expiration of the time for publication of the notice. However, before the secretary of the board is required to give notice, the petitioners must advance to the secretary sufficient money to pay the estimated cost of all proceedings under the petition. [Formerly 545.586]

**545.061 Hearing on petition.** The board of directors, at the time and place mentioned in the notice, or at some other time to which the hearing of the petition may adjourn, shall hear the petition and consider all objections to the petition presented in writing by any person, showing cause why the petition should not be granted. The failure of any person to object shall be taken as assent by the person to the inclusion of the lands in the district as requested in the petition. [Formerly 545.588]

**545.062** [Amended by 1969 c.345 §13; 1987 c.835 §1; 1995 c.42 §42; renumbered 545.181 in 1995]

**545.064** [Amended by 1965 c.541 §2; 1995 c.42 §48; 1995 c.78 §1; renumbered 545.221 in 1995]

**545.065** [1959 c.276 §2; 1993 c.392 §1; 1995 c.42 §63; renumbered 545.295 in 1995]

**545.066** [Amended by 1957 c.128 §1; 1965 c.614 §1; 1971 c.403 §9; 1993 c.771 §12; renumbered 545.183 in 1995]

**545.067 Liability of petitioners for obligations of district.** Except as provided in ORS 545.075, the board of directors to whom the petition is presented may require as a condition precedent to the granting of the petition that the petitioners severally pay, contract to pay or become liable to the district for assessments for the payment of their pro rata share of all bonds and the interest thereon previously issued by the district. The amount of the assessments required under this section, as nearly as the amount can be estimated by the board, shall be the amount that the petitioners or their grantors would have been required to pay to the district had such lands been included in the district at the time it was originally formed or when the bonds were issued. [Formerly 545.590]

**545.068** [Amended by 1995 c.42 §43; renumbered 545.185 in 1995]

**545.070** [Amended by 1965 c.332 §6; 1977 c.774 §26; 1979 c.286 §15; 1989 c.182 §7; 1995 c.42 §49; renumbered 545.225 in 1995]

**545.071 Acceptance or rejection of petition; inclusion of land when owner objects.** If the board of directors considers that it is not for the best interest of the district to include in the district the lands mentioned in the petition, the board, by order, shall reject the petition. However, if the board considers that it is for the best interest of the district that the lands or any part of the lands be included, the board may order that the district be changed so as to include the lands or any part of the lands mentioned in the petition. When making the change, the board shall not subject to the charges or assessments of the district the lands of any owner objecting to the inclusion of the lands. However, the board may include such lands within the boundaries of the district solely for administrative convenience. The order shall describe the boundaries of the land included with such exceptions as may be made. [Formerly 545.592; 1999 c.452 §9]

**545.072** [Repealed by 1989 c.182 §49]

**545.074** [Repealed by 1975 c.771 §33]

**545.075 Requirements that may be imposed upon petitioners in western Oregon district; charges or assessments.** (1) Notwithstanding ORS 545.067, in any irrigation district lying entirely west of the summit of the Cascade Mountains, the board of directors may require as a condition precedent to the granting of the petition that the petitioners severally pay, contract to pay, become liable to the district for or consent that the lands petitioned to be included be

charged or assessed by the district for such sums as the board of directors determines. However, these sums shall not exceed the amount the petitioners or their predecessors in interest would have been required to pay to the district for charges and assessments for the payment of:

(a) Their pro rata share of all bonds and the interest thereon previously issued by the district, or other indebtedness previously incurred, had such lands been included in the district at the time it was originally formed, or when the bonds were so issued or such indebtedness incurred; and

(b) The cost of any additional facilities required to deliver water to the lands of the petitioners.

(2) The board of directors may provide for the payment of any charge or assessment under this section in annual installments. The order of inclusion shall set forth the description of the lands included, the amount of the charge or assessment on the lands and the manner of payment. After the order is recorded under ORS 545.079, the order is an assessment of the district upon the lands of petitioners for any bonded indebtedness or federal or state contract obligation in accordance with the provisions of the order of inclusion, and the lands are included within the boundaries of the district.

(3) The annual installments may be included with the annual charge or assessment of the district upon the water user for district purposes. The annual installments shall bear interest, be subject to a lien of the district upon the lands and be collected or foreclosed in the same manner and with the same effect as charges and assessments of the district for district purposes.

(4) Upon foreclosure of charges or assessments of the district upon any included lands, the amount of the unpaid balance of the charge or assessment provided for in subsection (1) of this section and not included in any foreclosure proceedings remains a charge and assessment lien of the district upon the lands. However, when the district is the purchaser at any sale on foreclosure it may, upon a resale of any lands included in the foreclosure sale, release the lands from the lien of any unpaid balance of the charges and assessments.

(5) For the purposes of this section the summit of the Cascade Mountains is considered to be a line beginning at the intersection of the western boundary of Hood River County with the northern boundary of the State of Oregon, thence southerly along the western boundaries of the counties of Hood River, Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon. [Formerly 545.593]



**545.076** [Amended by 1995 c.42 §72; renumbered 545.343 in 1995]

**545.078** [Amended by 1995 c.42 §73; renumbered 545.345 in 1995]

**545.079 Recording of order including lands in district; effect of order; appeal.**

(1) Upon the allowance of a petition for inclusion of lands and when an appeal has not been filed within 30 days after entry of the order, a certified copy of the order of the board of directors including the lands in the district shall be filed for record in the office of the county clerk of each county in which lands of the district are situated. The district as changed and all lands in the district shall be liable for all existing obligations and indebtedness of the district.

(2) An appeal may be taken from the order of the board as provided in ORS 548.105 to 548.115. If an appeal is not taken, the order of inclusion shall be deemed lawful and conclusive against all persons. The order shall not thereafter be questioned in any manner in any proceedings. [Formerly 545.594; 1999 c.452 §10]

**545.080** [Amended by 1995 c.42 §74; renumbered 545.347 in 1995]

**545.081** [1993 c.771 §14; 1995 c.42 §50; renumbered 545.237 in 1995]

**545.082** [Amended by 1995 c.42 §51; renumbered 545.239 in 1995]

**545.084** [Amended by 1995 c.42 §52; renumbered 545.241 in 1995]

**545.085 Record of petition; admissibility in evidence.** Upon the filing of the copies of the order under ORS 545.079, the secretary shall record the petition for inclusion in the minutes of the board. The minutes, or a certified copy thereof, shall be admissible in evidence with the same effect as the petition. [Formerly 545.596]

**545.086** [Amended by 1995 c.42 §53; renumbered 545.245 in 1995]

**545.088** [Amended by 1995 c.42 §54; renumbered 545.249 in 1995]

**545.089 Redivision of district; election of directors.**

(1) When land is included within a district by proceedings under ORS 545.057 to 545.085, if the district is subdivided for the election of directors and as a result of the inclusion of the land the deviation in acreage among the divisions is greater than 10 percent, the board of directors, not earlier than 30 days after the final order making the inclusion, shall make an order redividing the district. Redivision shall be done in the same manner as provided for the initial division of the district in ORS 545.033 (2).

(2) If redivision of the district under subsection (1) of this section results in the creation of a division without a qualified representative on the board of directors, the position of director from that division shall

be filled at the next general election of the district. When the newly elected director assumes office, if there are two or more directors from another division, the term of office of the director having the least time left to serve shall expire. The initial term of office of the newly elected director shall be the same as the remaining term of the director whose term expires as provided under this subsection. [Formerly 545.598; 1999 c.452 §11]

**545.090** [Amended by 1995 c.42 §55; renumbered 545.253 in 1995]

**545.091 Inclusion of lands not subject to charges of district.** The boundaries of a district may for administrative convenience encompass lands that are not subject to the charges and assessments of the district, without regard to whether the lands are susceptible to irrigation. An owner whose land is within the boundaries of a district but is not subject to the charges and assessments of the district does not have the rights or duties of an elector or owner of land under this chapter. [1999 c.452 §2]

**Note:** 545.091 was added to and made a part of ORS chapter 545 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**545.092** [Repealed by 1969 c.344 §8]

**(Subdistricts)**

**545.093 Creation of subdistricts; purpose; change in subdistrict boundaries.** (1) Subdistricts within an irrigation district may be created as provided in this section.

(2) When the owners of more than 50 percent of the acreage in any contiguous tracts of land situated within a district and subject to the charges or assessments of the district desire to have the district undertake the construction of works for irrigation of their land or provide for the reconstruction, betterment, extension, purchase, operation or maintenance of works already constructed that will benefit their lands, they may petition the board for the creation of a subdistrict. The petition shall state the boundaries proposed for the subdistrict, the name and address of each person signing the petition, a brief general statement as to the works the petitioners desire to have constructed or provided and a prayer asking that the lands described be organized as a subdistrict. The description of the boundaries of the proposed subdistrict shall be certified as a complete and sufficient legal description by a qualified engineer or land surveyor and the certificate shall be filed with the board at the time the petition is filed. The petition shall be considered by the board at its next meeting. If the board approves the petition, the board shall adopt an order creating the subdistrict. The order shall contain a description of the

boundaries of the subdistrict. A subdistrict may include all or any part of the lands within a district. A copy of the order shall be recorded in each county in which lands within the subdistrict are located.

(3) A subdistrict may also be created under this section by resolution of the board.

(4) After the creation of a subdistrict under this section, the boundaries of the subdistrict may be changed by the inclusion of lands outside of the subdistrict. A proceeding under this subsection may be initiated by petition of the owners of more than 50 percent of the lands sought to be included in the subdistrict. The lands to be included in the subdistrict must be contiguous to the subdistrict and within the boundaries of the district. The petition shall state the boundaries of the lands to be included in the subdistrict, the reason for adding the lands to the subdistrict, the name and address of each person signing the petition and a prayer asking that the lands described by the petition be included in the subdistrict. The petition shall be filed with the board. The description of the boundaries of the subdistrict after the proposed addition shall be certified as a complete and sufficient legal description by a qualified engineer or land surveyor and the certificate shall be filed with the board at the time the petition is filed. The board of directors shall enter an order fixing a time and place for a hearing on the petition and shall either publish notice of the hearing or mail a notice of the hearing to all landowners within the boundaries of the lands proposed for inclusion in the subdistrict. At the hearing or at any time and place to which the hearing may be adjourned, the board shall determine what lands proposed to be included within the subdistrict will be benefited by inclusion in the subdistrict. The board shall adopt an order for inclusion of the benefited lands in the subdistrict and the new boundaries of the subdistrict shall be described in the order.

(5) A subdistrict created under this section may be designated "Subdistrict No. \_\_\_\_\_ of the \_\_\_\_\_ Irrigation District."

(6) A subdistrict created under this section may be an electoral district for purposes of district elections under ORS 545.167.

(7) The district board of the main district is the governing board of each subdistrict of the district.

(8) Except as otherwise provided in ORS 545.093 to 545.095, after the creation of a subdistrict, proceedings relating to a subdistrict shall conform to provisions of this chapter applicable to districts. In all other matters affecting only a subdistrict, provisions of this chapter applicable to a district

apply to the subdistrict as though the subdistrict were a district. [1999 c.356 §2]

**Note:** 545.093 to 545.095 were added to and made a part of ORS chapter 545 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**545.094 Engineering plan for improvements within subdistricts; notice; hearing; remonstrance.** After the creation of a subdistrict, the board may develop an engineering plan for the improvements requested in the petition for the creation of the subdistrict or proposed by the board. The board may make an engineering plan for the subdistrict or may adopt as an engineering plan any plan made by any department or agency of the federal government or the State of Oregon or a project work plan proposed for any soil and water conservation district in which lands within the subdistrict are located. Upon completion of the plan, the board shall give notice of the plan to the owners of the tracts of land within the subdistrict and shall permit the inspection of the plan at the office of the subdistrict by the landowners. The notice may be given by mail or by publication, as may be determined by the board. The notice shall fix a time and place for a hearing at which objections to the plan may be heard by the board. The hearing shall be held not less than 20 nor more than 30 days after the date of mailing or the date of the last publication of the notice. At the hearing, the board may make changes in the engineering plan that the board considers necessary after reviewing objections or suggestions made by any person at the hearing. After the hearing, the board may approve the plan, as corrected or changed, by adopting an order of approval. However, if the owners of more than 50 percent of the lands within the subdistrict subject to the charges or assessments of the district file written objections to the order approving the engineering plan with the secretary of the district within 15 days after the date of the order, no further action shall be taken under the order and the plan shall be considered to have been rejected by the landowners. When an engineering plan for a subdistrict is rejected by the landowners, the board may obtain a new engineering plan and present it to the landowners in the manner provided in this section. [1999 c.356 §3]

**Note:** See note under 545.093.

**545.095 Charges or assessments for improvements within subdistrict.** The cost of constructing, purchasing, operating, maintaining and improving the works described in an engineering plan for a subdistrict shall be charged to the owners of the lands, or assessed against the lands, benefited by the works in proportion to the benefits to be received by each tract of land. The charges or

assessments shall be in addition to the regular charges or assessments of the district under ORS 545.471. Only the lands or owners within a subdistrict shall be liable for, charged with or in any manner assessed for the payment of judgments, claims, damages, costs, expenses, debts or other liabilities of or against a district that arise out of or are incurred in the constructing, purchasing, operating, maintaining or improving of the works of the subdistrict. [1999 c.356 §4]

**Note:** See note under 545.093.

### **(Exclusion of Land)**

#### **545.097 Exclusion of tracts; effect on status of district, rights and liabilities.**

The boundaries of any irrigation district organized under the Irrigation District Law may be changed, and tracts of land that were included within the boundaries of the district at or after its organization may be excluded from the district in the manner prescribed in ORS 545.097 to 545.126. However, a change of the boundaries of a district resulting from exclusion of lands from the district shall not impair or affect its organization, its right in or to property or any of its rights or privileges of whatever kind or nature. Exclusion of lands from the district shall not affect, impair, or discharge any contract, obligation, lien, or charge for or upon which the district would be liable or chargeable if the change of its boundaries had not been made, or if land had not been excluded from the district. [Formerly 545.602]

**545.099 Petition for exclusion of lands from district; approval by board; payment of costs of exclusion.** (1) The owners in fee of one or more tracts of land or the holders of an uncompleted title to government or state lands which constitute a portion of an irrigation district may jointly or severally file with the board of directors a petition requesting that those tracts be excluded and taken from the district. The petition shall state the grounds upon which it is requested that the lands be excluded. The petition shall also describe the boundaries of the tracts sought to be excluded and the lands of the petitioners which are included within those boundaries. The description of the lands need not be more particular or certain than is required when the lands are entered in the assessment book by the county assessor.

(2) Upon receipt of a petition for exclusion, the board of directors shall review the petition and shall enter its order approving the petition. The board may approve the petition subject to the requirements of ORS 545.051, 545.097 or 545.126 or may approve the petition without conditions, as the board considers appropriate. The board, as a condi-

tion of exclusion, may require the petitioners to pay all costs of exclusion, including but not limited to recording fees, a reasonable administrative fee and all past due charges and assessments of the district attributable to the petitioners and the lands of the petitioners. When any district facilities, including but not limited to ditches, pipelines, headgates or other waterworks, are on the lands of the petitioners, if the petitioners propose to change the use of the land, the district may require the petitioners to provide measures to protect those facilities and may require that appropriate easements be provided if there are none of record. [Formerly 545.604; 1999 c.452 §12]

#### **545.101 Exclusion of subdivisions with three or more tracts on each acre of land; exceptions.**

(1) When a subdivision is platted after September 13, 1975, under ORS 92.010 to 92.192, if the subdivision has three or more tracts on each acre of land within the subdivision, the subdivision shall be excluded and taken from the district pursuant to ORS 545.097 to 545.126 at the time that the plat is approved by the appropriate governing body.

(2) The exclusion provided in subsection (1) of this section shall not apply to a district which:

(a) Also supplies domestic water approved by the Oregon Health Authority to the subdivision; or

(b) Agrees to supply water to the subdivision. A district may require as a condition of any agreement that:

(A) The subdivider install underground pipe from the district's designated point of delivery to each lot or parcel in the subdivision as shown on the plat approved by the appropriate governing body;

(B) The subdivider install a meter or other adequate measuring device at the delivery point to the subdivision and for each lot or parcel;

(C) The subdivider provide adequate easements for the delivery system and make provision for the maintenance and repair of the delivery system; and

(D) The subdivider provide any other measures that the district considers necessary for the proper and efficient delivery of water to the subdivision and for the efficient administration of such delivery.

(3) Nothing in subsection (2)(b) of this section requires a district to agree to deliver water to a subdivision. [Formerly 545.611; 1999 c.505 §1; 2009 c.595 §987]

**545.102** [Amended by 1969 c.669 §13a; 1985 c.561 §8; 1995 c.42 §57; renumbered 545.271 in 1995]

**545.104** [Amended by 1981 c.897 §60; 1995 c.42 §58; 1995 c.696 §27; renumbered 545.275 in 1995]

**545.105 Assent of bondholders; acknowledgment; filing; recording.** If there are outstanding bonds of the district at the time of the filing of the petition for exclusion, the holders of the bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion of the lands as may be excluded from the district by order of the board, may be excluded from the district. If the lands, or any portion of the lands, are excluded from the district, they shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the bondholders in the same manner and form as required for a conveyance of land. The acknowledgment shall have the same force and effect as evidence as the acknowledgment of a conveyance. The assent shall be filed with the board and be recorded in the minutes of the board. The minutes, or a copy thereof certified by the secretary of the board, shall be admissible in evidence with the same effect as the assent. The certified copy may be recorded in the office of the county clerk of the county in which the lands are situated. [Formerly 545.612]

**545.106** [Amended by 1995 c.42 §71; renumbered 545.335 in 1995]

**545.108** [Amended by 1991 c.459 §423a; 1995 c.42 §107; renumbered 545.471 in 1995]

**545.109 Recording minutes of board.** When the board of directors excludes any lands from the district upon petition for exclusion, if the exclusion changes the boundaries of the district, the board shall make an entry in its minutes describing the boundaries of the district. For that purpose the board may have a survey made of such portions of the district as it considers necessary. A certified copy of the entry of the minutes of the board excluding any land, certified by the secretary of the board, shall be filed for record in the county clerk's office of each county within which any land of the district is situated. [Formerly 545.614; 1999 c.452 §13]

**545.110** [Amended by 1995 c.42 §56; renumbered 545.257 in 1995]

**545.112** [Amended by 1995 c.42 §64; renumbered 545.301 in 1995]

**545.113 State agency to pay assessment and charges or to petition for exclusion.** Every state agency acquiring land within the boundaries of an irrigation district shall:

(1) Pay all assessments and other charges that may be lawfully charged by the irrigation district and that are chargeable to the owner or occupier of the land; or

(2) File with the board of directors of the district a petition requesting that the land be excluded from the district in accordance with ORS 545.097 to 545.126. [Formerly 545.615]

**545.114** [Amended by 1995 c.42 §65; renumbered 545.303 in 1995]

**545.116** [Amended by 1995 c.42 §66; renumbered 545.305 in 1995]

**545.117** [Formerly 545.616; repealed by 1999 c.452 §30]

**545.118** [Repealed by 1989 c.182 §49]

**545.119** [1993 c.771 §15; renumbered 545.279 in 1995]

**545.120** [Repealed by 1975 c.771 §33]

**545.122** [Repealed by 1969 c.344 §8]

**545.123 Redivision of district; election of director.** (1) When land is excluded from a district by proceedings under ORS 545.097, 545.099, 545.101, 545.105 or 545.109, if the district is subdivided for the election of directors and as a result of the exclusion of the land the deviation in acreage among the divisions is greater than 10 percent, the board of directors, not earlier than 30 days after the final order making the exclusion, shall make an order redividing the district. Redivision shall be done in the same manner as provided for the initial division of the district in ORS 545.033 (2).

(2) If redivision results in the creation of a division without a qualified representative on the board of directors, the position of director from that division shall be filled at the next general election of the district. When the newly elected director assumes office, if there are two or more directors from another division, the term of office of the director having the least time left to serve shall expire. The initial term of office of the newly elected director shall be the same as the remaining term of the director whose term expires as provided under this subsection. [Formerly 545.618; 1999 c.452 §14]

**545.124** [Amended by 1995 c.42 §59; renumbered 545.283 in 1995]

**545.126 Liability of excluded lands for district's obligations.** ORS 545.097 to 545.126 shall not operate to release any lands excluded from the district from any lien on the lands or any obligation to pay any valid outstanding bonds or other indebtedness of the district at the time of the filing of the petition for exclusion of the lands. The lands shall be held subject to the lien, and answerable and chargeable for the payment and discharge of all outstanding obligations at the time of the filing of the petition, as fully as though the petition were never filed and the order of exclusion never made. If lands were subdivided into small tracts of less than one acre after the bonded indebtedness is apportioned to the lands on a per acre basis, the required payments shall be computed to the nearest one-tenth acre. For the purpose of discharging the outstanding indebtedness, the lands so excluded shall be considered part of the irrigation district. Notwithstanding the exclusion of land from

the district, all provisions otherwise available to compel the payment by the land of its quota or portion of the outstanding obligation if the exclusion had never been accomplished, may be resorted to in order to compel and enforce the payment by the land of its quota or portion of the outstanding obligations of the irrigation district for which it is liable. However, the land excluded shall not be held answerable or chargeable for any obligation incurred after the filing of the petition for exclusion. This section shall not apply to any outstanding bonds or other obligations or indebtedness the holders of which have assented to the exclusion of such lands from the district. [Formerly 545.620]

#### **(Union or Merger of Districts)**

**545.131 Union or merger of districts; petition; approval of board; election; indebtedness.** An irrigation district may be merged and included within another irrigation district. The board of directors seeking merger shall present a petition showing the indebtedness of the district and its boundaries to the board of directors of the district in which it is desired to be included. The petition may be accepted or rejected by the latter board. If accepted, an election shall be ordered by the latter board in the district desiring to be included. At the election, the questions "Merger —Yes," and "Merger —No," shall be submitted to the qualified electors of the district and shall be determined by a majority vote of the qualified electors. The election shall be conducted in the same manner as an election for the organization of an irrigation district, and the board shall have the same powers and authority in conducting the election as are possessed by the county court in organizing an irrigation district. If the vote is "Merger—Yes," the indebtedness of each district shall be determined and entered upon the records. A division of the indebtedness shall be ordered which shall be binding on the districts. Thereafter the districts shall be one district with the lands of the merged district included in the surviving district to the same extent and effect in all respects as if originally included. [Formerly 545.622]

#### **DISTRICT ELECTIONS AFTER FORMATION (Generally)**

**545.135 Elections subsequent to organization of district; election of directors.** (1) Except for the second Tuesday in November next following the organization of the district, an election shall be held in each district on the second Tuesday in November of each year, at which one or more directors

shall be elected. The person receiving the highest number of votes for any office to be filled shall be elected, and shall hold office for three years from the annual organizational meeting in January next following the election and until a successor is elected and qualified. The qualifications for a director shall be those set forth in ORS 545.043.

(2) In districts organized prior to May 21, 1917, a director shall be elected from each of the three divisions into which the board of directors may have divided the district, or, if the board of directors has so ordered, the directors shall be elected from the district at large.

(3) A newly elected director shall take the official oath at the annual organizational meeting in January next following the election or as soon thereafter as possible. The director shall file the oath in the office of the board of directors.

(4) Notwithstanding subsection (1) of this section, if the second Tuesday in November falls on a holiday as defined in ORS 187.010 and 187.020, the election shall be held on the day following the second Tuesday in November. [1995 c.42 §30; 2005 c.469 §1]

**545.137 Notices of election; board of election; place of holding election; nomination of candidates; advertising openings on district board; certificate of election to sole candidate; ballots.** (1) At least 10 days before any election held under the Irrigation District Law, subsequent to the organization of any district, the secretary of the board of directors shall cause the publication of a notice of the time, place and purpose of the election in a newspaper that is published or distributed within every county in which either the district or a division of the district is located. The secretary shall also post a general notice of the election in the office of the board specifying the polling places of each division.

(2) Prior to the publishing and posting of the notices required in subsection (1) of this section, the board must appoint for each division, from the electors of the division, three judges of election, who shall constitute a board of election for the division. If the board fails to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the division at that hour may appoint a board of election from the group of electors present. In its order appointing the board of election, the board of directors must designate the place within the division where the election is to be held. The board may designate the district office or any other location within the district as the place where the election is to be held. If one location serves as the place of election

for more than one division, the board of directors may appoint from among the electors of the divisions a single three-member board of election for the divisions.

(3) Candidates may be nominated for any election in the same manner as candidates may be nominated at the organization election described in ORS 545.041. Openings for the board of directors of an irrigation district shall be advertised in a newspaper of general circulation within the boundaries of the district for which the candidate would be elected or posted in three public places within the district at least 60 days prior to the election. All nominations shall be filed with the secretary of the board not more than 75 nor less than 35 days before the date of the election. In districts having more than 25 electors, a person shall not be elected as a member of the board of directors unless the person has been nominated either by petition or at an assembly 35 days prior to the date of the election.

(4) If, after expiration of the date for nomination, only one qualified candidate has been nominated for the office to be filled, it shall not be necessary to hold an election. The board of directors shall declare such candidate elected as director at the next regularly scheduled board meeting or at a special meeting called for that purpose. The secretary immediately shall make out and deliver to the nominated person a certificate of election signed by the secretary and authenticated with the seal of the board.

(5) The secretary shall cause the names of all persons nominated to be printed on ballots as candidates for the offices for which they have been nominated. [Formerly 545.026; 1999 c.452 §15; 2001 c.257 §2]

**545.139 Board of election; polls; ballots.** (1) The judges who constitute the board of election for a precinct shall elect a presiding officer for the board who may administer all oaths required in the progress of an election. If during the progress of an election any judge fails to act, the presiding officer may appoint additional judges. Any member of the board of election may administer and certify oaths required to be administered during the progress of election. Before opening the polls each member of the board must take and subscribe an oath faithfully to perform the duties imposed by law. Any elector of the precinct may administer and certify such oath.

(2) The polls shall be open on the day of the election from 7 a.m. to 8 p.m.

(3) The provisions of the general election laws of this state concerning the form of ballot do not apply to the elections held under the Irrigation District Law. [Formerly 545.028; 2007 c.154 §64]

**545.141 Conduct of election; challenge and verification of qualifications of elector; counting ballots.** (1) Voting may commence as soon as the polls are open and may continue during all the time the polls remain open. Voting shall be conducted as nearly as practicable in accordance with the general election laws. An absent elector may obtain a ballot and vote, as nearly as practicable, in the manner provided for absent electors in ORS chapter 253.

(2) A person who offers to vote and claims to be an elector, but fails to provide either evidence of ownership, acreage or other voting authorization, shall be allowed to vote after submitting a sworn statement in accordance with the provisions of ORS 254.407 and 254.409. However, any person voting pursuant to this section shall, in addition to the information required by ORS 254.407, include information in the elector's statement concerning the location of the claimed land and the precise acreage for which the elector is claiming ownership or voting authorization. Upon receipt of the elector's sworn statement, the secretary of the district shall attempt to verify the elector's voting qualifications under the Irrigation District Law.

(3) Any election board member or elector present at the time of voting shall challenge a person offering to vote in any election whom the board member or elector knows or believes to be unqualified as an elector. Any challenge shall be made in accordance with ORS 254.415. The elector's statement of challenge required by ORS 254.415 shall include the location of the claimed land and the precise acreage for which the elector is claiming ownership or voting authorization. Upon receipt of the elector's sworn statement, the secretary of the district shall attempt to verify the elector's voting qualifications according to the provisions of the Irrigation District Law.

(4) As soon as the polls are closed the judges shall open the ballot box and shall commence counting the votes. The ballot box may not be removed from the room in which the election is held until all ballots have been counted. The counting of the ballots shall be public. The presiding officer of the board of election or one of the judges shall take ballots from the ballot box one at a time, open them and read aloud the name of each person named on the ballot and the office for which the person is voted. If the intent of the voter is clear, the vote shall be counted and not rejected for lack of form. The judges shall keep an accurate account of the votes by tallies in duplicate and the counting shall continue without adjournment until all votes have been counted. [Formerly 545.030; 2001 c.257 §3; 2007 c.154 §65; 2013 c.520 §22]

**545.142** [Amended by 1995 c.42 §79; renumbered 545.365 in 1995]

**545.144** [Amended by 1989 c.182 §8; 1995 c.42 §80; renumbered 545.367 in 1995]

**545.145 Certificate of vote; stringing of ballots; sealing of returns; delivery to board secretary; recount.** As soon as all the votes are counted, a certificate shall be drawn up on each of the papers containing the tallies, or shall be attached to those papers. The certificate shall state the number of votes each candidate has received and shall designate the office for which the person was a candidate. The number of votes stated on the certificate shall be written in words and figures at full length. Each certificate shall be signed by all the members of the board of election. One of the certificates and the tally paper to which it is attached shall be retained by the presiding officer of the board of election and preserved by the presiding officer for at least six months. During the counting, the ballots shall be strung on a cord or thread by the presiding officer in the order in which they are entered upon the tally lists. The ballots, together with the other certificate and tally papers to which it is attached and a poll list of the voters voting at the election, shall be sealed by the presiding officer in the presence of the other judges, indorsed "Election returns of (naming the precinct) precinct," and directed to the secretary of the board of directors. The ballots and other materials shall be immediately delivered to the secretary of the board by the presiding officer, or by another safe and responsible carrier designated by the presiding officer. The ballots shall be kept unopened for at least six months, except that the ballots may be opened at any time at the direction of the board of directors for the purpose of canvassing the returns or conducting a recount of the ballots. If any person is of the opinion that the vote of any precinct has not been correctly counted, the person may appear on the day appointed by the board of directors to open and canvass the returns and demand a recount of the votes of the precinct that the person claims have been incorrectly counted. [Formerly 545.032]

**545.146** [Amended by 1995 c.42 §81; renumbered 545.369 in 1995]

**545.148** [Amended by 1995 c.42 §82; renumbered 545.371 in 1995]

**545.149 Canvass of returns; standard for rejecting certain election documents; canvass to be in public.** A list, tally paper or certificate returned from any election shall not be set aside or rejected for want of form if it can be satisfactorily understood. The board of directors shall meet at its usual place of meeting on the first Monday after

each election to canvass the returns. If, at the time of meeting, the returns of each precinct in which polls have been opened have been received, the board of directors shall then and there canvass the returns. However, if all the returns have not been received, the canvass shall be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass shall be made in public and by opening the returns and computing the vote of the district for each person voted for, and declaring the result. [Formerly 545.034]

**545.150** [Amended by 1989 c.182 §9; 1995 c.42 §83; renumbered 545.373 in 1995]

**545.152** [Amended by 1989 c.182 §10; 1995 c.42 §84; renumbered 545.375 in 1995]

**545.153 Statement of result; contents; certificate of election; effect of informalities in conduct of election.** (1) The secretary of the board of directors shall, as soon as the result is declared, enter on the records of the board a statement of the result. The statement must show:

(a) The whole number of votes cast in the district and in each division of the district.

(b) The names of the persons voted for.

(c) The office for which each person received votes.

(d) The number of votes given in each division to each person.

(e) The number of votes given for the office of director.

(f) The term of office for which each person received votes.

(2) The board of directors shall declare elected the person having the highest number of votes given for each office. The secretary shall immediately make out and deliver to such person a certificate of election, signed by the secretary and authenticated with the seal of the board. No informalities in conducting any election shall invalidate it if the election has been otherwise fairly conducted. [Formerly 545.036; 2001 c.257 §4]

**545.154** [Amended by 1989 c.182 §11; repealed by 1993 c.771 §20]

**545.156** [Formerly 545.038; repealed by 1999 c.452 §30]

### (Elections by Mail)

**545.163 Procedures for conducting election by mail.** (1) An irrigation district may conduct a district election by mail. The board of directors of the district shall designate by resolution, not later than the 50th day before any election, that an election will be conducted by mail.

(2) At an election by mail held for the purpose of electing a person to the board of

directors, the qualifications for a director are those set forth in ORS 545.043.

(3) An election by mail shall be conducted within the district or divisions within a district according to, as nearly as is practicable, the general provisions of ORS 545.137, 545.139, 545.141, 545.145, 545.149 and 545.153. However, the judges of election appointed under ORS 545.137 (2) are not required to be in attendance until after 8 p.m. on the day of the election.

(4) The secretary of the board of directors for the district shall mail an official ballot with a return identification envelope and a secrecy envelope to an elector, not sooner than the 20th day before the date of the election to be conducted by mail and not later than the 14th day before the election. The secretary shall cause to be placed in or on each return identification envelope a statement to be completed by the elector that says that the elector, under penalty of perjury, swears and affirms that the elector is the sole elector authorized to cast the ballot. In addition, the secretary shall verify that, according to the records of the district as of the 21st day before the election, the elector is entitled to vote.

(5) When a ballot is mailed to a corporate landowner, a person authorized to act in a representative capacity or landowners under multiple ownership, the secretary shall enclose voting instructions advising the elector that the voting rights of electors for corporate, representative or multiple ownerships are as described in ORS 545.002.

(6) The secretary of the board of directors may not mail voting materials to an elector who actually acquires ownership of land within the district after the 21st day before the date of an election. When an elector has acquired ownership of land within the district after the 21st day before the date of an election, the secretary shall make voting materials available, and the elector may vote, only at the district office or at another place designated by the board.

(7) When the elector is an elector described in subsection (6) of this section, the secretary of the board of directors shall, before making voting materials available, require that the elector file with the district a copy of a recorded deed or a memorandum of contract demonstrating the acquisition of land by the elector within the district. The secretary shall then allow the elector to mark the ballot, sign the return identification envelope and return the ballot in the return identification envelope to the secretary.

(8) An elector may obtain a replacement ballot if the original ballot is destroyed,

spoiled, lost or not received by the elector. The secretary shall keep a record of each replacement ballot provided to an elector. An elector may obtain a replacement ballot and may vote at the district office or another place within the district designated by the board of directors on the actual date of the election, during the hours designated in ORS 545.139.

(9) Until the time for the close of the polls, an elector may obtain a replacement ballot from the secretary of the board of directors, at a place designated by the board, if the original ballot is destroyed, spoiled, lost or not received by the elector.

(10) When an elector receives vote by mail materials, the elector shall comply with all written instructions provided, mark the ballot, sign both the return identification envelope and the sworn statement of entitlement to vote and return the marked ballot to the district by placing the ballot in the return identification envelope and either depositing the envelope in the United States mail or delivering the sealed envelope to the district office or another place designated by the district. If the elector returns the ballot by mail, the elector shall provide the postage.

(11) A completed ballot must be received by the district, at the proper place designated by the district, no later than 8 p.m. on the day of the election.

(12) A ballot shall be counted only if:

(a) The ballot was returned in the sealed return identification envelope provided by the district;

(b) The elector signed the return identification envelope; and

(c) The secretary of the board of directors has verified the name of the elector and the elector's ownership of land within the district.

(13) Using the records of the district, the secretary shall verify the name and land ownership of each elector. If the secretary determines that an elector to whom a replacement ballot has been issued has voted more than once, the secretary may not count any ballot cast by that elector. [Formerly 545.045; 1999 c.452 §16; 2005 c.127 §1; 2007 c.154 §66]

#### (Electoral Districts)

**545.167 Division of district for election of directors; procedure.** (1) In any irrigation district in which the board of directors is elected at large, the district may be subdivided for the election of directors when:

(a) In the judgment of the board it is necessary or beneficial to the welfare of the district; or



(b) There is filed with the board a petition that has been signed by a number of electors of the district equal in number to 20 percent of the votes cast at the last preceding election at which a director of the board was elected.

(2) Upon the determination of the board or upon the filing of a petition requesting division of the district, the board shall submit the question to the district electors at the next regular election or at a special election ordered by the board for such purpose.

(3) If a majority of electors voting on the question approves the division of the district, immediately following the election the board shall divide the district in the manner provided in ORS 545.207. The divisions shall be numbered first, second and third. One director shall be elected to the board of directors of the district from each division. However, nothing in this section or in ORS 545.169 and 545.171 shall be construed to prevent the directors who are serving when the district is divided from serving out the unexpired portion of their terms. [Formerly 545.624; 1999 c.452 §17]

**545.169 Election of directors from newly created divisions.** (1) At the district election next following the dividing of the district into divisions, the office of the director whose term expires the following January shall be filled by election of a director from the newly created division which is without representation on the board.

(2) If there are two divisions without representation, then a director shall be elected at the district election next following the division of the district from the newly created division without representation on the board that contains the largest number of electors. The other newly created division shall elect a director at the second general election following the division, which director shall take office at the expiration of the term of the second retiring member of the board. [Formerly 545.626]

**545.171 Election precincts in divisions; alteration.** For the purpose of elections in such district, the board of directors must establish a convenient number of election precincts in the divisions and define the boundaries of the precincts. An entire subdivision of a district may be designated as a single election precinct. For purposes of conducting an election, the board may designate a place that is within a precinct, at the district office or at any other location within the district as the place where the election is to be held. The precincts may be changed from time to time as the board considers necessary. [Formerly 545.628; 1999 c.452 §18]

**545.172** [Amended by 1995 c.42 §75; renumbered 545.349 in 1995]

**545.174** [Amended by 1995 c.42 §76; renumbered 545.351 in 1995]

**545.176** [Amended by 1973 c.305 §16; 1995 c.42 §77; renumbered 545.355 in 1995]

**545.178** [Amended by 1965 c.541 §1; 1995 c.42 §78; 1995 c.212 §3; renumbered 545.359 in 1995]

## BOARD OF DIRECTORS (Organization)

**545.181 Organization of board; officers; establishment of meeting dates; collection, custody and disbursement of moneys.** (1) Except as provided in subsection (2) of this section, on the first Tuesday in January next following their election, the board of directors shall meet and organize as a board. In organizing as a board, the directors shall:

(a) Elect a president from among the directors and appoint a secretary, who may be a director or the manager of the district.

(b) Establish the time for regular monthly meetings of the board as required under ORS 545.185.

(c) Establish, by resolution, the date of the next annual organizational meeting of the district.

(d) Establish the date the board shall next meet as a board of equalization under ORS 545.418.

(2) The board of directors may, by resolution, establish a different date in January for the annual organizational meeting.

(3) The county treasurer of the county in which the petition for the organization of the district was filed shall be ex officio treasurer of the district. Any moneys collected by other county treasurers on behalf of the district shall be transmitted to the district treasurer, together with a statement specifying the fund into which it is to be deposited. However, if the secretary of the irrigation district is authorized to collect operation and maintenance assessments or emergency assessments, as provided in this chapter, the secretary shall disburse the assessment moneys upon orders of the board of directors of the district. Any county treasurer having custody or control of funds of an irrigation district shall be responsible for them on the official bond as county treasurer. [Formerly 545.062; 2005 c.468 §1; 2005 c.469 §2]

**545.183 Compensation and expenses of officers and employees; membership fees in associations.** The board shall fix the compensation to be paid to the other officers and employees of the district. The board may pay, from the funds of the district, annual membership fees and assessments to irri-

gation, drainage or water users' associations.  
[Formerly 545.066]

**545.185 Meetings of board; quorum; public inspection of records.** The board of directors shall hold a regular monthly meeting in its office. The time of the regular monthly meeting shall be fixed by resolution of the board at the regular annual organizational meeting required by ORS 545.181. Special meetings required for the proper transaction of business may be held when called by the president or ordered by a majority of the board, by an order entered in the records of the board. Five days' notice of the special meeting must be given by the secretary to each member not joining in the order. The order must specify the business to be transacted, and business other than that specified may not be transacted at the special meeting, unless all the members are present. All meetings of the board must be public, and a majority of the members shall constitute a quorum for the transaction of business. However, on all questions requiring a vote there shall be concurrence of a majority of the board. All records of the board shall be open to public inspection during business hours. [Formerly 545.068; 1999 c.452 §19; 2005 c.468 §2; 2005 c.469 §3]

**545.187 Vacancy in office when director ceases to be resident or landowner; appointment of successor.** If a director of an irrigation district ceases to be a resident of the State of Oregon or ceases to be an owner, or a shareholder of a corporate owner, of land that is subject to the charges or assessments of the district situated in the division from which the director was elected or appointed, the position of the director becomes vacant. The vacancy must be filled as provided in ORS 545.188. [1995 c.754 §10; 2009 c.282 §3]

**545.188 Filling vacancy in office of director.** If the office of director of a board of directors of an irrigation district becomes vacant for any reason, notwithstanding ORS 198.320, the remaining directors on the board shall:

(1) If the district has been divided, appoint a resident of the State of Oregon who is a bona fide owner, or a shareholder of a bona fide corporate owner, of land situated in the division to serve until the annual meeting next following an election to fill the vacancy. The electors of the division shall elect a successor, from within the division, to replace the appointed director, who shall take office at the annual meeting next following the election and shall serve the remainder of the term of the director who vacated the office.

(2) If the district has not been divided, appoint a resident of the State of Oregon

who is a bona fide owner, or a shareholder of a bona fide corporate owner, of land situated in the district to serve until the annual meeting next following an election to fill the vacancy. The electors of the district shall elect a successor, at large, to replace the appointed director, who shall take office at the annual meeting next following the election and shall serve the remainder of the term of the director who vacated the office. [2009 c.282 §2]

**545.189 Recall of director; procedure; required number of signatures for recall petition.** (1) A district director may be recalled as provided in ORS 198.410 to 198.440, except that the recall petition shall be signed by a number of persons who are qualified to vote in the district, or in the subdivision of the district from which the director was elected, that is equal to but not less than the lesser of:

(a) Fifteen percent of the total number of votes that may be cast in an election for the director; or

(b) Fifteen percent of the total votes cast in the electoral district for all candidates for Governor at the most recent election at which a candidate for Governor was elected to a full term.

(2) Not more than one of the electors of a multiple ownership as described in ORS 545.007 (1)(a) may sign a recall petition. [1995 c.754 §2]

**545.192** [Amended by 1983 c.557 §1; 1995 c.42 §124; renumbered 545.511 in 1995]

**545.194** [Amended by 1983 c.557 §2; 1995 c.42 §125; 1995 c.212 §1; renumbered 545.513 in 1995]

**545.196** [Amended by 1969 c.694 §25; 1981 c.94 §43; 1983 c.557 §3; 1995 c.42 §126; renumbered 545.515 in 1995]

**545.198** [Amended by 1981 c.94 §44; 1995 c.42 §127; renumbered 545.517 in 1995]

### (Change in Number of Directors)

**545.199 Increase in number of directors upon determination of board or petition; election on increase.** (1) An irrigation district may increase the number of its board of directors from three to five members when:

(a) In the judgment of the board of directors, it is necessary or beneficial to the welfare of the district; or

(b) Fifty or more qualified electors within the district file with the board a petition requesting an election for the purpose of increasing the number of directors.

(2) Upon the determination of the board or upon the filing of a petition requesting the increase, the board shall submit the question to the district electors at the next regular election or at a special election ordered by the board for such purpose. At the same

election, two persons shall be elected to serve as directors if the electors, by a majority of votes cast at the election, increase the number of the board. [Formerly 545.018; 1997 c.249 §182; 1999 c.452 §20]

**545.200** [Repealed by 1969 c.345 §20]

**545.202** [Amended by 1983 c.557 §4; 1995 c.42 §128; renumbered 545.519 in 1995]

**545.203 Election of additional directors; terms of office.** Upon canvass of the returns, as provided in ORS 545.149, if there is any change voted, the person receiving the highest number of votes for the office of director at the election shall serve as director of the district at large for a three-year term that shall be considered to have started on the first Tuesday in January that next followed the last previous general election. The person receiving the next highest number of votes shall serve as director of the district at large for a term of two years that shall be considered to have started on the first Tuesday in January that next followed the last previous general election. [Formerly 545.020]

**545.204** [Amended by 1983 c.557 §5; 1993 c.97 §17; 1995 c.42 §130; renumbered 545.529 in 1995]

**545.206** [Amended by 1983 c.557 §6; 1995 c.42 §131; renumbered 545.532 in 1995]

**545.207 Redivision of district upon increase in directors; representation of divisions; voting qualifications.** Upon an increase of the number of directors from three to five, the board shall divide the total acreage of the district that is subject to assessment or charges by the district, into five divisions. Each division shall be as nearly equal in total acreage as may be practicable. In addition, the board shall define and particularly describe division boundaries and make use, in so far as may be desirable, of such natural boundaries as may exist in the district. The divisions shall be numbered first, second, third, fourth and fifth. As the terms of the present members of the board of directors expire, one director who is a resident of Oregon and either a bona fide owner of land or a shareholder of a bona fide corporate owner of land situated in the division, shall be elected from each division as the representative of that division on the board of directors. Voting for director of each division shall be by qualified electors within the division. However, the qualified electors of any district may, by a majority vote, determine that voting for directors shall be by the qualified electors of the entire district. If an elector is an owner in two or more divisions and resides in one of them, the elector shall vote in the division of residence. If an elector is a nonresident of the district, the elector may choose to vote in any one division in which the elector is an owner of land. When a nonresident landowner chooses to vote in any one division,

the landowner shall file with the secretary of the board a notice of the choice of division where the nonresident landowner chooses to vote. A nonresident landowner's choice to vote in a certain division is permanent and remains permanent until the nonresident landowner's ownership status changes in any way or until the nonresident landowner becomes a resident owner. [Formerly 545.022; 1999 c.452 §21]

**545.208** [Amended by 1983 c.557 §7; 1995 c.42 §132; renumbered 545.535 in 1995]

**545.210** [Amended by 1995 c.42 §133; renumbered 545.537 in 1995]

**545.211 Decrease in number of directors; redivision of district; terms of office.** The number of directors may be decreased to three substantially in the same manner as that provided for the increase of directors. When the number of directors is decreased, the board shall redivide the district into three divisions. The existing board shall continue in office until the expiration or other termination of their terms. Successors shall be appointed or elected only in divisions where representation will terminate with the term of a director. Directors shall thereafter be appointed or elected only as necessary to fulfill the requirements of the decrease in membership of the board, and so that the term of one director will expire each year. [Formerly 545.024]

**545.212** [Amended by 1969 c.694 §26; 1983 c.557 §8; 1995 c.42 §134; renumbered 545.539 in 1995]

**545.214** [Amended by 1969 c.694 §27; 1995 c.42 §135; renumbered 545.541 in 1995]

**545.216** [Amended by 1989 c.182 §12; 1995 c.42 §136; renumbered 545.545 in 1995]

**545.218** [Amended by 1995 c.42 §129; renumbered 545.521 in 1995]

**545.220** [Repealed by 1995 c.42 §184]

### (General Powers and Duties)

**545.221 Powers and duties of board as to management of district; water deliveries.** (1) The board shall:

(a) Manage and conduct the business and affairs of the district.

(b) Make and execute all necessary contracts, employ and appoint such agents, officers and employees as may be required, and prescribe their duties.

(c) Establish equitable bylaws, rules and regulations for the administration of the district and for the distribution and use of water among the landowners.

(d) Generally perform all acts necessary to fully carry out the purposes of the Irrigation District Law.

(2) The board may make available to any member user of the district, on an actual cost basis, any machinery or equipment re-

quired for the normal operation of an irrigation district. This machinery or equipment may be used by the member user only for improvement of water distribution or drainage systems and only at the convenience of the district. However, the machinery or equipment may not be used outside the boundaries of the district.

(3) The bylaws, rules and regulations established under this section may designate, either generally or particularly, the points of delivery within the district to which the district will make water deliveries for the use and benefit of member users at district expense. Water deliveries so made shall be in full and complete discharge of the district's obligation of water deliveries to member users under the Irrigation District Law. [Formerly 545.064; 1999 c.452 §22]

**545.222** [Amended by 1979 c.562 §19; repealed by 1995 c.42 §184]

**545.224** [Amended by 1983 c.557 §9; 1995 c.42 §67; renumbered 545.307 in 1995]

**545.225 Contracts; conveyances; suits; judicial knowledge concerning district; audit reports.** (1) The board of directors may:

(a) Enter into contracts and take conveyances or other assurances for all property acquired by it under the Irrigation District Law, in the name of the irrigation district, to and for the purposes expressed in the Irrigation District Law.

(b) Institute and maintain all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the Irrigation District Law, or to enforce, maintain, protect or preserve rights, privileges and immunities created by the Irrigation District Law, or acquired in pursuance of the Irrigation District Law.

(2) In all courts, acts, suits or proceedings the board may sue, appear and defend in person or by attorneys, in the name of the irrigation district. The court shall in all actions, suits or other proceedings take judicial knowledge of the organization and boundaries of all irrigation districts.

(3) When an audit is made in accordance with the provisions of ORS 297.405 to 297.555, the auditors shall prepare and file with the Secretary of State a certified copy of the audit report. [Formerly 545.070]

**545.226** [Repealed by 1989 c.182 §49]

**545.228** [1967 c.503 §4; 1993 c.771 §18; renumbered 545.551 in 1995]

**545.230** [1967 c.503 §5; 1995 c.42 §137; renumbered 545.553 in 1995]

**545.232** [1967 c.503 §6; 1995 c.42 §138; 1995 c.212 §4; renumbered 545.555 in 1995]

**545.234** [1967 c.503 §7; 1995 c.42 §139; 1995 c.79 §305; renumbered 545.557 in 1995]

**545.236** [1967 c.503 §8; 1995 c.42 §140; renumbered 545.559 in 1995]

## POWERS OF DISTRICTS

### (Acquisition of and Entry Onto Land)

**545.237 Right to enter upon lands for inspection and maintenance of water works.** (1) The board of directors, its officers or an agent or employee of the board of directors may enter upon land of a water user of the district for inspection, maintenance and regulation of ditches, pipelines, gates, pumps or other water works. In the absence of an emergency, the district shall provide adequate and appropriate notice prior to entering upon the land of the water user.

(2) Any person exercising the right of entry granted under this section shall not cause unnecessary damage to the property of the water user. The landowner shall not be responsible to the person or the district for any injury or damage to the person or district arising out of or occurring by reason of the entry, except when the landowner intentionally causes injury or damage to the person or district.

(3) The right of entry granted by this section shall not constitute a right of entry by the public onto the premises of the landowner. [Formerly 545.081]

**545.239 Right to enter upon and acquire lands and water rights; right of condemnation.** (1) The board of directors and its agents and employees have the right to enter upon any land in the manner provided by ORS 35.220 to make surveys and may locate the necessary irrigation or drainage works and the line for any canals and the necessary branches for the works or canals on any lands that may be considered best for such location. The board also has the right to acquire, by lease, purchase, condemnation or other legal means, all lands, water, water rights, rights of way, easements and other property, including canals and works and the whole of irrigation systems or projects constructed or being constructed by private owners, necessary for the construction, use, supply, maintenance, repair and improvement of any canals and works proposed to be constructed by the board. The board also has the right to so acquire lands, and all necessary appurtenances, for reservoirs, and the right to store water in constructed reservoirs, for the storage of needful waters, or for any other purpose reasonably necessary for the purposes of the district.

(2) In the acquisition of property under subsection (1) of this section, the district has the right to acquire by condemnation property already devoted to public use that is less necessary than the use for which it is required by the district, whether used for irri-

gation or any other purpose, and any other properties owned by the state or any of its departments or commissions. In the acquisition of property or rights by condemnation, the board shall proceed in the name of the district under the provisions of the laws of Oregon. [Formerly 545.082; 2003 c.477 §7]

**545.241 Bond or other security as condition of immediate possession in condemnation by irrigation or drainage district.** Prior to any party, officer or agent of an irrigation or drainage district entering upon any land sought to be condemned, the district shall furnish to the landowner an undertaking, either by surety bond, personal bond, cash or other security, in an amount sufficient to indemnify the landowner for the value of the land sought to be condemned, together with all costs and attorney fees to which the landowner may be entitled. This undertaking shall be conditioned so that the district shall pay to the owner all damages, costs and attorney fees that the owner may suffer by reason of the entry, or which may be awarded to the owner by a jury upon a trial of the cause. [Formerly 545.084]

**545.242** [Amended by 1989 c.182 §13; 1995 c.42 §141; renumbered 545.565 in 1995]

**545.244** [Amended by 1995 c.42 §142; renumbered 545.567 in 1995]

**545.245 Right to immediate possession in condemnation proceeding.** At any time after the board of directors of an irrigation district or board of supervisors of a drainage district has commenced proceedings to acquire title to any land necessary for rights of way, or for construction, alteration, repair or reservoir purposes, the district may enter into possession of the land and begin such work as may be necessary to the development of the district. [Formerly 545.086]

**545.246** [Amended by 1995 c.42 §143; renumbered 545.569 in 1995]

**545.248** [Amended by 1989 c.182 §14; 1995 c.42 §144; renumbered 545.571 in 1995]

**545.249 Right to condemn for irrigation purposes is a superior right.** The use of all water required for the irrigation of the lands of any district formed under the Irrigation District Law, together with all water rights and rights to appropriate water, rights of way for canals and ditches, sites for reservoirs, and all other property required in fully carrying out the Irrigation District Law, is declared to be a public use more necessary and more beneficial than any other use, either public or private, to which the water, water rights, rights to appropriate water, lands or other property have been or may be appropriated within the district. [Formerly 545.088]

**545.250** [Amended by 1995 c.42 §145; renumbered 545.573 in 1995]

**545.252** [Amended by 1989 c.182 §15; 1995 c.42 §146; renumbered 545.575 in 1995]

**545.253 Title to and rights in property acquired.** The legal title to all property acquired under ORS 545.239, 545.241, 545.245 and 545.249 shall immediately vest in the irrigation district and shall be held by it in trust for and hereby is dedicated and set apart to the uses and purposes set forth in the Irrigation District Law. The board is authorized and empowered to hold, use, acquire, manage, occupy, possess and dispose of the property as provided in the Irrigation District Law. The title acquired by an irrigation district under ORS 545.239, 545.241, 545.245 and 545.249 shall be the fee simple or such lesser estate as shall be designated in the judgment of appropriation. [Formerly 545.090; 2003 c.576 §497]

**545.254** [Amended by 1979 c.562 §20; 1989 c.182 §16; 1995 c.42 §147; 1995 c.79 §306; renumbered 545.577 in 1995]

**545.256** [Amended by 1979 c.284 §167; 1981 c.178 §16; 1995 c.42 §148; renumbered 545.579 in 1995]

**545.257 Authority of irrigation district to acquire domestic or municipal water works; assumption of obligations; sale of surplus water; impairment of irrigation service forbidden.** When an irrigation district is authorized by the electors of the district as provided in ORS 545.305 and when it appears necessary, proper or beneficial to its inhabitants, the irrigation district may:

(1) Acquire by gift, lease, purchase, condemnation or other legal means, domestic and municipal water works or water systems, and property incident to the works or systems, including reservoirs, pumps, mains, stations, water, water rights and all appurtenances. As a part of a transaction of acquisition, the district may assume any outstanding obligations on the water works or water systems. However, a right of condemnation shall not be granted against property of a city.

(2) Construct, reconstruct, equip, own, maintain, operate, sell, lease and dispose of, domestic and municipal water works or systems and property, and all appurtenances incident to the works, systems or property.

(3) Furnish water for domestic and municipal uses to premises and inhabitants within its district. In connection with furnishing water for domestic and municipal use, the district may supply, furnish and sell, for the uses mentioned in this section, any surplus water over and above the domestic and municipal needs of its inhabitants, to persons or other public bodies as defined in ORS 174.109, either within or outside the district. However, the power to furnish water for domestic and municipal uses granted by this section shall not be exercised in such a manner as to impair the service of the dis-

trict in furnishing water for irrigation purposes. [Formerly 545.110; 2003 c.802 §133]

**545.258** [Amended by 1995 c.42 §149; renumbered 545.581 in 1995]

**545.260** [Amended by 1969 c.694 §28; 1981 c.94 §45; 1989 c.182 §17; 1995 c.42 §150; renumbered 545.585 in 1995]

**545.262** [Amended by 1995 c.42 §151; renumbered 545.589 in 1995]

**545.264** [Amended by 1995 c.42 §152; renumbered 545.595 in 1995]

**545.266** [Amended by 1995 c.42 §153; renumbered 545.599 in 1995]

**545.268** [Amended by 1995 c.42 §154; renumbered 545.603 in 1995]

**545.270** [Amended by 1969 c.694 §29; 1995 c.42 §155; renumbered 545.607 in 1995]

### (Distribution of Water)

**545.271 Furnishing water.** Upon receiving proper compensation, an irrigation district may provide for and furnish water for lands not included within the district and for lands within the district but not subject to assessment by the district. An irrigation district may acquire, assume or exercise any rights, property, powers or obligations of a contractor with the state under the Carey Act and may be organized in lieu of a water users' association required either by statute or contract. An irrigation district may provide for and furnish water for control of the temperature, humidity or other qualities of the atmospheric conditions pertaining to land otherwise irrigable under this chapter or under ORS chapter 552. [Formerly 545.102]

**545.272** [Amended by 1995 c.42 §156; renumbered 545.617 in 1995]

**545.274** [Amended by 1989 c.182 §18; 1995 c.42 §157; renumbered 545.621 in 1995]

**545.275 Lien on crops for water supplied for irrigation; enforcement; attorney fees.** (1) Any person or irrigation district that supplies water to any person or irrigation district for irrigation of crops shall, upon complying with subsection (2) of this section, have a lien upon all crops raised by the use of such water for the reasonable value of the water supplied as of the date when the water was first supplied for the crops. The lien shall be a continuing one and shall bind the crops after, as well as before, they have been gathered. The lien shall be preferred to all other liens or encumbrances upon the crops, except mortgages given to the state for the purchase of seed wheat.

(2) The person or irrigation district so supplying water, within 40 days after the water has been furnished, or within 40 days after the close of the irrigation season, shall file with the county clerk of the county in which the lands, or some part of the lands, are situated and where the water has been furnished, a claim containing a true statement of the account due for the water after

deducting all just credits and offsets. The claim shall also contain the date when the water was first supplied, the name of the owner of the crops or reputed owner, if known, the name of the person to whom the water was furnished and a description of the lands upon which the crops were grown sufficient for identification. The claim shall be verified by oath of some person having knowledge of the facts and shall be filed with and recorded by the county clerk in the book kept for the purpose of recording liens claimed under ORS 87.035. The record shall be indexed as deeds and other conveyances are required by law to be indexed, and the clerk shall receive the same fees as required by law for recording deeds and other instruments.

(3) The lien may be enforced by a suit in equity. The remedy provided by this section does not abrogate any other remedy provided by law for the collection of dues, charges or assessment for water furnished. The court may award reasonable attorney fees to a person or irrigation district if the person or district prevails in an action to foreclose a lien under this section. The court may award reasonable attorney fees to a defendant who prevails in an action to foreclose a lien under this section if the court determines that the plaintiff had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

(4) If all or part of the crop is sold prior to the filing of the lien, or possession delivered to an agent, broker, cooperative agency or other person to be sold or otherwise disposed of, and its identity lost or destroyed or if the crop is commingled with like crops so that it cannot be segregated, and if the purchaser, agent, broker, cooperative agency or other person was notified of the filing of the lien by being furnished with a certified copy of the claim of lien, then the lien attaches to the proceeds of sale remaining in the possession of the purchaser, agent, broker, cooperative agency or other person at the time of the notice. The lien shall be as effective against the proceeds as against the crop itself. [Formerly 545.104]

**545.276** [Renumbered 545.625 in 1995]

**545.278** [Amended by 1995 c.42 §158; renumbered 545.629 in 1995]

**545.279 District may require water control devices and measuring devices; notice to water user; objections; hearing.** (1) The board of directors may require a water user of the district:

(a) To install and maintain a lockable and controllable headgate or other water control device at a point of delivery of water to the user's property; or

(b) To install a measuring device at a point of delivery as necessary to assist the board in determining the amount of water to be delivered to the user.

(2) When practicable, water control devices and measuring devices under this section shall be constructed on property for which the district holds existing easements.

(3) Except when an emergency requires the immediate installation of a water control device to avoid loss of water, the board shall notify a water user in writing that the water user is required by the board under this section to install a water control device or a measuring device. The notice shall be delivered personally or mailed by registered or certified mail, return receipt requested, to the water user. Within the 20-day period immediately following the date of personal delivery or mailing of the notice or at any time before the date of the next regular meeting of the board, the water user may file with the secretary of the board a written objection to the requirement for installation of the device and request a hearing before the board. After the hearing, the board may affirm, amend or rescind its order to the water user for installation of a water control device or measuring device. The decision of the board shall be final. [Formerly 545.119]

**545.280** [Amended by 1989 c.182 §19; 1995 c.42 §159; renumbered 545.631 in 1995]

**545.282** [Amended by 1995 c.42 §160; renumbered 545.633 in 1995]

**545.283 Joinder of districts in acquisition or construction of irrigation or other water use works.** (1) Two or more irrigation districts or other water users' organizations, organized under the laws of this state or of any adjoining state, may enter into agreements with each other and with the United States for the joint acquisition, operation, maintenance, management, control, construction, care, repair or improvement of works for diverting, impounding, distributing, irrigating or draining of lands within the boundaries of the districts or other water users' organizations. Subject to ORS 545.257, agreements made under this section may include provisions to furnish water for domestic and municipal uses to premises and inhabitants within the boundaries of the districts or other water users' organization.

(2) Agreements entered into under this section may be evidenced by written contracts executed on behalf of the board of directors or trustees of each district or water users' organization or by resolutions entered upon their minutes. The contracts or certified copies of them and certified copies of the resolutions may be recorded in the office in which deeds are recorded in each county in which is situated any of the land, works or

other real property of the district or other water users' organization.

(3) Agreements made under this section may provide for joint ownership, several ownership or ownership in common of the property convenient for the joint purposes of the parties to the agreement and may provide for the terms under which the property or respective portions of the property shall be held.

(4) Any rights or disputes arising out of or from the agreements may be tried before and enforced by any court of competent jurisdiction in this state.

(5) The districts or other water users' organizations joined in any agreement under this section are jointly granted the same power of condemnation as is now possessed by one district or organization alone.

(6) Any meeting of the governing board of a district or other water users' organization of this state, regularly adjourned to or called substantially in the manner for calling special meetings, may be held in another state, in conjunction with the board of a co-operating district or organization of such other state, with the same validity as if held in the office of the district or organization in this state.

(7) In carrying out cooperative action under this section between a district or other water users' organization of this state and one of an adjoining state, either district or organization may divert water from either or both states, for impounding in the adjoining state, or for distribution to the land of either or both of the cooperating districts or organizations.

(8) So far as necessary for carrying out the purposes of this section, a cooperating district or other water users' organization in an adjoining state may hold title to property in this state, and a cooperating district or organization in this state may hold title to property in the adjoining state. [Formerly 545.124]

**545.284** [Amended by 1989 c.182 §20; 1995 c.42 §161; renumbered 545.635 in 1995]

**545.286** [Amended by 1989 c.182 §21; 1995 c.42 §162; renumbered 545.637 in 1995]

**545.287 Directors may construct or maintain improvements, levy assessments or provide for charges.** (1) This section applies:

(a) When a parcel of land lying within an irrigation district is subdivided or partitioned into tracts, and the owner has made no provision which in the opinion of the board of directors is adequate for the proper distribution of water to the tracts; or

(b) When improvements for the distribution or delivery of water to any tract of

land are not owned by the district and the owner or person in control of the improvement fails to maintain, repair or replace the improvement as required for the proper and efficient distribution or delivery of water to any tract.

(2) When the interest or convenience of such tracts requires the construction, repair or maintenance of any ditch, flume, dike, aqueduct or other improvement, the board may construct, repair or maintain the improvement. In order to defray the whole or any portion of the cost and expense of the improvement, the board may levy and collect an assessment upon all tracts specially benefited by the improvement or provide for a charge against the landowner of any tract specially benefited by the improvement. The board may determine what lands are specially benefited by the construction, repair or maintenance, and the amount to which each tract is benefited. [Formerly 545.408; 1999 c.452 §23]

**545.288** [Amended by 1979 c.562 §22; 1995 c.42 §163; renumbered 545.639 in 1995]

**545.290** [Repealed by 1995 c.42 §184]

**545.291 Apportionment of water to tracts; employment of person to distribute water; assessment or charge; lien on land.** When a parcel of land lying within an irrigation district is subdivided or partitioned into tracts, and plats of such subdivision are filed as provided by law, if the owners fail properly to apportion the water to their various tracts in the subdivision, the board of directors may employ some competent person to distribute and apportion water for the tracts. The reasonable cost of the distribution and apportionment of water shall be apportioned each year by the board to the tracts. The cost of the distribution and apportionment of water shall be assessed or charged by the board as a special charge to the tracts in the same manner as other assessments or charges are made and extended upon the tax rolls of the county in which the irrigation district lies. The assessments or charges so levied and apportioned shall be a lien upon the tracts and shall be collected in the same manner as all other assessments or charges are levied and collected by the board. [Formerly 545.410; 1999 c.452 §24]

**545.293 Resolution for water distribution works or services; hearing of objections; construction, repair or maintenance of improvement; apportionment of costs; assessment.** (1) When the board of directors considers it expedient or necessary to construct, repair or maintain ditches, flumes, dikes, aqueducts or other improvement, as provided in ORS 545.287, or to employ the services of some competent person to distribute and apportion water for

any subdivision, as provided in ORS 545.291, the board shall declare its intention by resolution.

(2) A resolution shall be posted in three public places in the subdivision for five days. Within 10 days from the date when the resolution is posted, the owner of any property within a tract may file with the secretary a written remonstrance against the proposed improvement or employment. The board hearing the remonstrances may, in its discretion, overrule any remonstrance and, by resolution, order construction, repair or maintenance of the improvements. The board may either enter into a contract to complete the improvement or, in its discretion, complete the improvement under its own supervision. After the work on the improvement is completed the board shall, by resolution, apportion the costs and declare an assessment upon each tract benefited. The assessments declared under this section shall be final and conclusive. [Formerly 545.412]

**545.295 Conditions required in certain districts before delivering water to additional lands; order; charges and assessments.** (1) Notwithstanding any other provisions of this chapter, in any irrigation district that was formed before April 23, 1959, and that lies entirely west of the summit of the Cascade Mountains, the board of directors shall, as a condition precedent to the delivery of water and the charging and assessment of any lands within the district that have not been irrigated or charged or assessed, determine:

(a) That the delivery of water to the lands will not result in an inadequate supply of water deliverable to the other lands within the district charged or assessed at that time; and

(b) That the lands can be served by the facilities of the district without impairing the ability of the district adequately to serve the lands previously charged or assessed.

(2) After making the determination required by subsection (1) of this section the board of directors may, as a condition for the delivery of water and the charging or assessment of the lands, require that the applicants contract to pay to the district such sums as the board determines. However, these sums shall not exceed the amount the applicants or their predecessors in interest would have been required to pay to the district for charges and assessments for the payment of their pro rata share of all bonds previously issued and the interest on the bonds, or other indebtedness incurred by the district, had such lands been included in the district when such bonds were issued or such indebtedness incurred. However, there shall be credited to these sums any amount previ-



ously paid on behalf of these lands on the bonds or indebtedness.

(3) The charges made under subsection (2) of this section shall be set forth in the order allowing the inclusion of the lands in the district. A certified copy of the order shall be recorded in the same manner as provided by ORS 545.079 and the charges and assessments paid, collected and enforced as provided by that section.

(4) For the purposes of this section the summit of the Cascade Mountains is considered to be a line beginning at the intersection of the western boundary of Hood River County with the northern boundary of the State of Oregon, thence southerly along the western boundaries of the counties of Hood River, Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon. [Formerly 545.065]

### (Finances)

**545.301 Financing acquisition of water works; contracts with federal government; approval by electors.** In carrying out and executing the powers conferred in this section and ORS 545.257, 545.303 and 545.305, an irrigation district may borrow money and issue bonds or other evidences of indebtedness. The district may contract with the United States or any agency thereof for the acquisition, construction, reconstruction, maintenance or operation of all or part of a domestic and municipal water system. The powers granted by this section shall not be exercised without the prior approval of a majority of the electors of the district at an election conducted as declared in ORS 545.305. However, no authority granted before March 5, 1945, to any irrigation district by a majority of the electors of the district at an election held pursuant to any other law shall be limited or otherwise affected by this section and ORS 545.257, 545.303 and 545.305. [Formerly 545.112]

**545.303 Water works system to be self-sustaining; payment of indebtedness; rates; separate accounts.** (1) The district shall charge consumers for the water furnished in amounts so that the domestic and municipal water system shall be self-sustaining. All indebtedness incurred in the acquisition, construction, maintenance, operation and disposition of the water system shall be paid from the revenues so collected and from the proceeds of the disposition of the whole or any part of the water system. The board of directors may establish rates or charges to be paid by each person whose premises are served. The rates or charges may be fixed and classified according to the

type of use, according to the amount of water used and according to whether the property serviced lies within or outside the boundaries of the district.

(2) The district shall establish and maintain separate accounts covering the acquisition, construction, reconstruction, maintenance, operation and disposition of the domestic and municipal water system. All moneys collected from the operation and disposition of the whole or any part of the water system shall be deposited in a special fund to be designated "Domestic Water Fund." Moneys in the fund shall be disbursed only in connection with the water system. [Formerly 545.114]

**545.305 Election concerning acquisition of water works.** (1) When the board of directors of an irrigation district has determined by resolution that it is for the best interests of its inhabitants that it exercise any of the powers mentioned in ORS 545.257, including the refunding of outstanding bonds, the board shall, by resolution, specify the particular powers it proposes to exercise and order an election to be conducted. Upon the order being entered, an election shall be held by the qualified electors of the district to determine:

(a) Whether or not bonds in any amount designated by the board in such order shall be issued for any purpose necessary or convenient in carrying out this section and ORS 545.257, 545.301 and 545.303; and

(b) Whether or not the board shall proceed to exercise the powers, or any of them, specified in the resolution.

(2) Notice of the election shall be given in the manner provided in ORS 545.511, and that section shall apply to all subsequent proceedings under this section and ORS 545.257, 545.301 and 545.303. [Formerly 545.116]

**545.307 Investment of surplus funds in federal or state bonds.** When there are surplus funds not necessary for the payment of current obligations of the district in any construction fund, operation and maintenance fund, sinking fund, United States Contract Fund, State of Oregon Contract Fund, emergency fund or any other fund of the district, the board of directors of an irrigation district may invest the surplus funds in bonds of the United States or the State of Oregon. The district may hold and dispose of the bonds at such times as may be necessary to the conduct of the business and affairs of the district. [Formerly 545.224]

**545.312** [Amended by 1995 c.42 §164; renumbered 545.643 in 1995]

**545.314** [Amended by 1989 c.182 §22; 1995 c.42 §165; renumbered 545.645 in 1995]

**(Construction of Improvements)**

**545.315 Petition to construct improvements for irrigation; contents; assent of petitioners to assessment of cost of improvement.** (1) The holders of title, or evidence of title, representing a majority of the acreage of any body of land within any irrigation district may file with the board of directors of the district a petition in writing, requesting the construction of any improvement necessary or expedient for the efficient irrigation of the lands.

(2) The petition shall contain:

(a) A general description of the proposed improvement;

(b) A description of the tracts, or body of land, owned by the petitioners; and

(c) A description of the exterior boundaries of the land for which the proposed improvement is to be constructed and a description of any lands that are to be excepted from the benefit or use of the proposed improvement.

(3) The petition shall also contain an agreement on the part of the petitioners that the cost of construction of the improvement shall constitute a lien upon the lands within the exterior boundaries of the land described in the petition, except for the lands that are excepted from the benefit or use of the proposed improvement, and that the lands shall be assessed for and pay the cost of the improvement.

(4) The petition shall be deemed to give assent of the petitioners to construction of the improvement and shall authorize the assessment of the cost of such improvement upon and against the lands described in the petition and not specifically therein excepted. The petition shall be acknowledged in the same manner that conveyances of land are required to be acknowledged. [Formerly 545.402]

**545.316** [Amended by 1995 c.42 §166; renumbered 545.647 in 1995]

**545.318** [Amended by 1995 c.42 §167; renumbered 545.649 in 1995]

**545.319 Elections on question of constructing improvement; resolution of directors.** (1) If the board of directors considers it for the best interest of the district that the proposed improvement be constructed, the board, by resolution, may call an election to be held within the boundaries of the land described in the petition for the purpose of submitting the question as to whether or not the proposed improvement shall be constructed. The board shall in the resolution fix the time and place of holding the election, specify the polling place and appoint three judges who shall constitute a board of election. The resolution shall also contain the ballot title to be used at the

election. The ballot title shall contain such information as in the judgment of the board will advise the owners of the land to be charged with the cost of the proposed improvement as to the general nature of the improvement and the estimated cost.

(2) The board at the time of calling the election within the land described in the petition shall also by resolution call an election to be held within the district at large for the purpose of submitting the question as to whether or not the proposed improvement shall be constructed. This resolution shall contain provisions identical with those provided for in subsection (1) of this section. The election in the district at large shall be held on the same day that the election within the territory described in the petition is held. The election shall be conducted, as nearly as practicable, in accordance with the general election laws of the state applicable to irrigation districts. [Formerly 545.404]

**545.320** [Amended by 1995 c.42 §168; renumbered 545.651 in 1995]

**545.322** [Amended by 1989 c.182 §23; 1995 c.42 §169; renumbered 545.655 in 1995]

**545.323 Majority of votes required to approve construction of improvement; cost; apportionment; assessment.** If a majority of the votes cast by the electors within the boundaries of the land described in the petition are "Improvement—Yes," and if a majority of the votes cast by the electors in the district at large are "Improvement—Yes," then, but not otherwise, the board shall construct the improvement. The cost of construction shall be apportioned by the board to the lands within the boundaries described in the petition, so that each acre of irrigable land within those boundaries shall be assessed and required to pay the same amount. In all other respects the assessment and its levy and collection shall be, as nearly as practicable, in accordance with the assessment, levy and collection of other assessments and taxes levied upon lands within the district. [Formerly 545.406]

**545.324** [Amended by 1989 c.182 §24; 1995 c.42 §170; renumbered 545.659 in 1995]

**545.326** [Amended by 1979 c.562 §23; 1995 c.42 §171; renumbered 545.663 in 1995]

**545.328** [Repealed by 1995 c.42 §184]

**545.330** [Repealed by 1995 c.42 §184]

**545.332** [Amended by 1989 c.182 §25; 1995 c.42 §172; renumbered 545.667 in 1995]

**(Miscellaneous)**

**545.335 Drainage works; construction authorized; powers of districts; designation of bonds.** When it appears necessary, proper or beneficial to drain any of the lands within the district, either for the benefit of

the lands actually requiring drainage or for the protection of other lands within the district, and without regard to whether or not the irrigation works have been actually acquired or constructed, an irrigation district may cause drainage canals and works to be constructed. When exercising the authority granted by this section relating to drainage, the district shall have the same power and authority as is conferred on the district with regard to irrigation. All powers in the Irrigation District Law conferred upon irrigation districts with respect to irrigation shall be construed to include drainage. However, any bonds issued solely for drainage purposes shall be known as "Drainage Bonds of \_\_\_\_\_ Irrigation District." [Formerly 545.106]

#### **DEVELOPMENT OF DISTRICT LANDS BY UNITED STATES**

**545.343 Obligations or contracts with United States under Reclamation Act; acquisition of federal lands.** (1) For the purpose of acquiring control over government land within the district and of complying with the provisions of the Act of Congress entitled "An act to promote reclamation of arid lands," approved August 11, 1916, the board of directors may make investigations, and, based thereon, such representations and assurances to the Secretary of the Interior as may be requisite. The board may enter into any obligation or contract with the United States for:

(a) The construction, operation and maintenance of the necessary works for the delivery and distribution of water under the Federal Reclamation Act and the rules and regulations established thereunder. The board may contract for the refusal of water service to any lands which are in default in the payment of any assessment levied to carry out any contract between the district and the United States.

(b) The assumption, as principal or guarantor, of indebtedness to the United States on account of district lands.

(2) The board may also contract with the United States for a water supply or drainage works under any Act of Congress providing for or permitting the contract.

(3) When a contract is made with the United States, as provided in this section, bonds of the district may be deposited with the United States, at 90 percent of their par value, to the amount to be paid by the district to the United States under the contract. The interest on the bonds, if bearing interest, shall be provided for by assessment and levy, as in the case of other bonds of the district, and regularly paid to the United States to be applied as provided in the contract. If the bonds of the district are not so deposited, the

board of directors shall include, as part of any levy or assessment provided for in the Irrigation District Law, an amount sufficient to meet each year all payments accruing under the terms of the contract.

(4) The board may accept, on behalf of the district, appointment of the district as fiscal agent of the United States, or authorization of the district by the United States to make collections of money for or on behalf of the United States in connection with any federal reclamation project. If the board accepts the appointment or authorization, the district is authorized to act as fiscal agent or to make the collections of money and to assume the duties and liabilities incident to such action. The board also has full power to do all things required by the federal statutes enacted in connection with districts serving as fiscal agents or collectors of moneys for reclamation projects, and all things required by the rules and regulations established by any department of the federal government in regard thereto. [Formerly 545.076]

**545.345 Conveyance of lands to United States.** Any property acquired by the district may be conveyed to the United States in so far as the property may be needed by the United States for the construction, operation and maintenance of works for the benefit of the district under any contract that may be entered into with the United States under ORS 545.343 or 545.347. [Formerly 545.078]

**545.347 Obligations or contracts with United States under Fact Finders' Act.** The board of directors may also enter into any obligation or contract with the United States for the construction, operation and maintenance of the necessary works for the delivery and distribution of water under the Act of Congress of December 5, 1924, entitled "An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1924, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes." In such contract, the board of directors may provide for payment of charges to the United States upon the basis authorized by the Act of Congress of December 5, 1924, commonly known as the "Fact Finders' Act," and under the rules and regulations that may be promulgated by the Bureau of Reclamation of the United States. [Formerly 545.080]

**545.349 Authority to transfer land to federal government for development and colonization; repayment of expenditures; levy of assessments; funds; contracts with federal government.** Any irrigation district organized under the laws of Oregon may turn over to the federal government, or any federal agency, any lands owned or con-

trolled by the district, for the purpose of development and colonization by the federal government or federal agency. The irrigation district may levy assessments for repayment to the federal government or federal agency of the sum expended in the development of the lands, with interest on the assessments not to exceed six percent per annum. The district may also assess the lands to cover repayment to the district of its cost, with interest on the assessments not to exceed six percent per annum. The district shall deposit the moneys collected as assessments in the "Bond Fund" account, or the "United States Contract Fund" account, or the "Bond and United States Contract Fund" account, as appropriate. The latter assessments shall be in addition to the assessments which may be levied to meet the reclamation charges, interest on the reclamation charges and maintenance. Irrigation districts may enter into contracts and assume obligations with the federal government or any federal agency, as may be necessary, expedient or desirable to bring about the development of lands in the irrigation district. [Formerly 545.172]

**545.351 Acquisition of lands from owners; crediting of value on charge against remainder of land.** In order to make the lands available for development by the federal government or any federal agency, as provided in ORS 545.349, any irrigation district may accept from any landowner within the district title to any part of the land of the landowner and allow the landowner credit to the extent of the reasonable value of that land on the reclamation charge against the remainder of the land of the landowner. However, credit shall not be allowed so as to entirely extinguish the reclamation charge against any land in the district, and land shall not be accepted by the district or credit allowed until a contract has been executed by the district and the federal government or some federal agency for development of the lands. [Formerly 545.174]

**545.352** [Amended by 1995 c.42 §173; renumbered 545.671 in 1995]

**545.354** [Amended by 1995 c.42 §174; renumbered 545.673 in 1995]

**545.355 Proceedings on extension or cancellation of payments due federal government.** When an irrigation district under contract with the United States has levied any assessment for collection of money payable to the United States under the contract, if the Secretary of the Interior has, by agreement with the board of directors of the district, authorized the extension or cancellation of any payments due the United States by the cancellation of assessments already levied but remaining unpaid, the board of directors shall certify to the tax collector of

the county in which the land is located a statement of the year and amounts assessed against each tract for which cancellation has been authorized. The tax collector upon receipt of the certificates shall, if the assessment remains unpaid, indorse upon the district's assessment roll, "Corrected under certificate of board of directors," and deduct and cancel from the assessment against each tract the amount of the assessment authorized to be canceled. [Formerly 545.176; 1997 c.170 §51]

**545.356** [Amended by 1995 c.42 §175; renumbered 545.675 in 1995]

**545.358** [Amended by 1995 c.42 §176; renumbered 545.677 in 1995]

**545.359 Contracts with federal government for flood control works.** (1) When the board of directors of any irrigation district determines that it is for the best interest of the district that the floodwaters of any stream that enters upon the district or whose waters are used in the irrigating of any of the lands in the district be controlled, the board may enter into a contract with the United States Government, or any of its agencies which may be empowered to construct flood works. The contract shall require the irrigation district:

(a) To provide without cost to the United States all lands, easements and rights of way necessary for such control project or works.

(b) To hold and save harmless the United States or any of its agencies or officers from loss or damage by reason of the construction of the flood control project and works.

(c) To maintain and operate all the works after construction in accordance with any regulations prescribed by the United States or its agencies or officers.

(2) The contract shall not be binding upon the district until it has been approved by the legal voters of the district as provided by ORS 545.511 and 545.513 (1). When the contract has been so executed and approved the board shall carry out fully the provisions of the contract. [Formerly 545.178]

**545.360** [Amended by 1995 c.42 §177; renumbered 545.679 in 1995]

## SALE OF DISTRICT PROPERTY

**545.365 Disposition of real property acquired by district; sale to member of board or employee prohibited.** Any irrigation district foreclosing or otherwise acquiring any real property may lease, operate or sell the property upon such terms and taking such security for the rental or purchase price as the board of directors may consider advisable. A member of the board of directors or employee of the irrigation district shall not purchase or be interested

in any contract for purchase of lands sold by the district. [Formerly 545.142]

**545.367 Authorization of sale of property, excess water or hydroelectric power.** When the board of directors of an irrigation district considers it to be for the best interests of the district to sell any property owned by the district and not required for district purposes, including excess storage or carrying capacity, surplus water or water rights, or to dispose by contract, lease or sale of any undeveloped hydroelectric power, the board shall adopt and enter in the minutes of its proceedings a resolution stating in substance:

(1) A general description of property to be sold.

(2) The amount of the excess capacity or surplus water owned by the district and the amount proposed to be sold.

(3) That the sale can be made without impairing the security of the outstanding bonds. [Formerly 545.144]

**545.369 Release of lien of bonds; form; acknowledgment by bondholders; copy of release as evidence.** The board of directors may then proceed to obtain releases of the lien of all outstanding bonds against the property it is proposed to sell. Release of the lien shall be in writing and acknowledged by the holders of the bonds in substantially the same manner and form as is required for a conveyance of land. However, the notary or other officer taking the acknowledgment shall include in the certificate of acknowledgment, or in another appropriate certificate, the fact that the bonds described in the instrument were exhibited to the notary or other officer by the bondholder making the acknowledgment. The acknowledgment shall have the same force and effect as evidence as has the acknowledgment of a conveyance. The certificate of the officer taking the acknowledgment that the bonds were exhibited shall be conclusive evidence of the ownership of the bonds by the person executing and acknowledging the release. The acknowledged release shall be filed with the board and recorded in its minutes. The minutes, or a copy thereof certified by the secretary of the board, shall be admissible in evidence with the same effect as the original of the acknowledged release. [Formerly 545.146]

**545.371 Consent of bondholders; notice requiring presentation of objections; implication of consent; hearing of objections by directors.** The board may obtain constructive consent to the release of the lien of all outstanding bonds against property to be sold by publishing a notice describing the property to be released from the lien of outstanding bonds, and requiring all holders of

bonds against the district to present in writing their dissent from or objection to release of the lien of all bonds against the property to be sold. The board shall publish the notice for at least four consecutive weeks in three newspapers published in Oregon. One of the newspapers must be a newspaper published in the county in which the office of the board is located, if such a newspaper exists. Any holders who fail to file objection or dissent within 90 days from the date of the first publication of the notice shall be considered to have released the lien of their bonds on the property. The board shall enter its order to the effect that, for the purpose of the sale, the lien of all such bonds has been released from the property to be sold. If any objection or dissent is filed within the time required by the notice, the board shall fix a time for a hearing on the objection or dissent and at the hearing shall determine whether or not the sale can be made without impairing the security of the bonds. If the board determines that the sale can be made, it shall enter its order to that effect and may proceed to sell the property. If the board determines that the sale cannot be made, it may postpone the sale until the objection is removed. [Formerly 545.148]

**545.373 Proceeds of sale; special fund; uses of moneys.** All proceeds from the sale of property owned by the district and subject to the lien of outstanding bonds shall be held in a special fund to be applied:

(1) First, to the construction or reconstruction of the drainage or other works of the district that are required by the United States as one of the conditions for the purchase of the property by the United States; and

(2) Second, as may be agreed between the district and the holders of the bonds, except that when the proceeds are applied to bonded indebtedness, the application shall be made to payment on the outstanding bonds as their interests may appear. [Formerly 545.150]

**545.375 Purchaser rights; power of directors respecting contracts and instruments relating to transfer.** (1) A sale of excess storage or carrying capacity or a sale of surplus water or water rights by the board shall not give the purchaser any prior or superior right in the water rights, water supplies, reservoir or irrigation works of the district over the rights retained by the district for lands within the district.

(2) If the contracts or instruments are considered advantageous to the district, the board may enter into contracts and execute instruments as may be necessary:

(a) To transfer property, including excess storage and carrying capacity and surplus water and water rights;

(b) To transfer the right to the use of the quantity of water sold;

(c) To transfer an interest in the reservoir and other irrigation works of the district; or

(d) For the joint management and operation of any or all of the works of the district.

(3) Property of the district that is the subject of a contract or instrument executed under this section must be released from the lien of outstanding bonds of the district prior to the execution of the contract or instrument. [Formerly 545.152]

## CHARGES AND ASSESSMENTS

### (Generally)

**545.381 Annual assessments; computation of amount to be raised; apportionment; determination of acreage and assessments; credit for water rights.** (1) On or before the first Tuesday in April of each year, the board of directors shall make a computation of the whole amount of money necessary to be raised by the district for the ensuing year for any purpose whatsoever in carrying out the Irrigation District Law, including estimated delinquencies on assessments. The board may provide for a reasonable maintenance and operation reserve fund. The amount determined by the board shall constitute an assessment upon all the land included in the district. The amount determined by the board shall be apportioned by the board to the lands owned or held by each person so that each acre of irrigable land in the district shall be assessed and required to pay the same amount, except as otherwise provided in this section and ORS 545.385, 545.387, 545.389, 545.391 and 545.413.

(2) The board of directors shall determine the number of irrigable acres owned by each landowner in the district and the proportionate assessments as nearly as may be from available information. If a substantial error is made in the determination, proper adjustment may be made at the next equalization of the annual assessment by increasing or decreasing the amount any landowner shall pay. Any lands owned by any person totaling less than one acre in area shall be assessed as one acre.

(3) Until such time as the water rights appurtenant to any tract of land within an irrigation district are acquired by the district, the assessments against that land, except for operation, maintenance and drainage, shall be in the same proportion to a full assessment as the additional water right to be supplied to the tract bears to a full water right. For operation, maintenance and drainage, each irrigable acre in the district shall be assessed the same, except as

otherwise provided in ORS 545.387, 545.389, 545.391 and 545.413. [Formerly 545.432; 2001 c.215 §19]

**545.382** [Amended by 1991 c.459 §423b; 1995 c.42 §92; renumbered 545.399 in 1995]

**545.384** [Amended by 1995 c.42 §93; renumbered 545.401 in 1995]

**545.385 Certain lands may be assessed at different amounts; additional service charge.** (1) Notwithstanding ORS 545.381 or 545.482 to 545.508, an irrigation district that assesses land in the district under ORS 545.381 or 545.482 to 545.508 may assess any land within the district to which the district furnishes or supplies water for irrigation purposes and which:

(a) Lies above the level of the canals or ditches of the district and is irrigated by pumping by the landowner;

(b) Is irrigated by a partial, supplemental or intermittent supply of water from the district;

(c) Is irrigated by impounded water of the district; or

(d) Is irrigated by water of the district which is subject to prior use by other lands within the district.

(2) The amount of the assessment on land described in subsection (1) of this section shall be an amount that the board determines to be just, taking into consideration the benefit to the land assessed and extra expenses, if any, of the landowner or holder in using such water. However, the amount may not exceed the amount assessed against irrigable acres lying below the level of the canals or ditches of the district.

(3) Notwithstanding ORS 545.381 or 545.482 to 545.508, an irrigation district which assesses land in the district under ORS 545.381 or 545.482 to 545.508 may assess a service charge, in addition to the regular assessment, against subdivided and small tract lands that have appurtenant water rights and to which irrigation water is furnished or is available for delivery. A service charge authorized by this section shall be assessed against lands only when delivery of water to these lands requires operation, construction and maintenance costs substantially greater than operation, construction and maintenance costs involved in delivering water to the majority of other lands in the district. All such small tract or subdivided lands shall be placed in groupings rounded up to the next whole acre, and each grouping shall be assessed as a single class. [Formerly 545.433]

**545.387 Assessment on benefit basis; determination of benefits.** After an affirmative vote at any regular or special election called or held under the Irrigation District

Law, a district issuing bonds may proceed to levy and collect assessments for any purposes of the irrigation district on a benefit basis instead of on the basis of the number of irrigable acres. The valuation of lands for determination of benefits shall be made by three competent, disinterested viewers appointed by the governing body of the county. The viewers shall classify the lands included in each ownership or smallest legal subdivision and fix the assessments according to the productive value of water and land prepared to receive water. The assessments shall be determined without regard to permanent improvements, such as buildings or orchards. When fixing the amount of assessments, the viewers shall provide proper deductions for partial water rights appurtenant to any tract of land within the district not furnished by the district. However, no change in method of assessment shall be made except with the consent of the holders of outstanding bonds. [Formerly 545.434]

**545.389 Deduction for rights or property required by district; assessments pending construction.** (1) In fixing the proportionate part of the cost of the reclamation that each owner of land shall pay, the amount to be paid to any owner for easements, rights of way, water rights or other property or rights required by the district, may be deducted from the amount that the owner of the property or rights would otherwise be required to pay, and assessments for payment of the cost of the reclamation, and interest thereon, may be made accordingly. Property and rights so acquired shall not be vested in the district until bonds have been disposed of or means otherwise provided for reclamation of the land in the district.

(2) Before completion of the project, the board may adjust the assessment so that the lands to which the district delivered water or could on demand have delivered water, during the preceding irrigation season, shall, in addition to their pro rata share of the remainder of the assessment, pay for the operation and maintenance of the constructed or partially constructed works through which the lands receive water. [Formerly 545.436]

**545.391 Assessments for contracts with United States.** (1) When a contract has been made with the United States, in addition to the amount determined and apportioned as provided in ORS 545.381, 545.385, 545.387 and 545.389, the board shall also fix the amount payable by each tract within the district, in accordance with the federal reclamation laws and the public notices, orders and regulations issued under the federal reclamation laws and in compliance with any contract made by the United States with the owners of the lands and with the

contracts between the district and the United States. When the contract lands having a partial water right or partial rights in a system of irrigation, or irrigation and drainage, appurtenant to the lands, the amounts payable shall be according to the benefits to the lands, making due allowances for existing rights. The amounts so determined, fixed and apportioned shall constitute an assessment upon the lands of the district.

(2) In irrigation districts which enter into a contract with the United States providing for the payment of charges to the United States upon the basis authorized by the Act of Congress of December 5, 1924, entitled "An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1924, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes," annual levies of assessments for the purpose of making payment to the United States under the contract may be made by the board on the basis provided for in that Act and the contract, either before or after judicial confirmation of apportionment of benefits. In such districts annual levies for the purpose of making construction payments to the United States may be made on the basis of the gross average annual acre-income of the lands of the district or divisions of the district, or classes of lands in the district, as such gross average annual acre-income is determined by the Secretary of the Interior, until the amount apportioned against each tract has been fully paid. [Formerly 545.438]

**545.393 Resolution concerning assessments for payment to United States; publication; collection by county officers.** When an irrigation district has entered into a contract with the United States providing for payment to the United States under any federal reclamation law, the board of directors of the irrigation district, at any regular meeting that is not later than its meeting on the second Tuesday of September of any year, may enter a resolution fixing the date upon which computation shall be made of the necessary funds to be raised as provided in ORS 545.391 and the date when the board shall convene as a board of equalization. In the resolution, the board of directors may authorize the discounts that may be provided for in the contract between the district and the United States for payment of assessments in full on or before December 31 of the year in which the assessments are made. The board of directors shall make the levy of assessments in such amount that the discount can be allowed without reducing collections below the required amount. The resolution shall be published for two consecutive weeks in a newspaper in the county in which the

office of the district is located. The resolution thereafter shall remain in full force and effect until revoked by the board. If the district does not collect its own assessments, the assessment shall be completed and the levy filed with the county assessor prior to November 30 of the year in which the assessment is made. After receipt of a certified copy of the resolution, the county officers charged with the collection of irrigation district assessments shall collect the assessments in accord with the provisions of the resolution. [Formerly 545.442]

**545.395 Development of district by units; apportionment of assessments; inclusion of noncontiguous land; assessment of reclaimed or improved lands for district obligations.** An irrigation district may provide for the reclamation, improvement or irrigation of the lands within the district in units. When a district does so, the assessments against the lands in the district may be apportioned by the board of directors to the lands owned or held by each person so that the lands in each unit shall pay the cost of reclaiming, improving, maintaining and operating the lands in the unit. Within the units the assessments shall be apportioned in accordance with ORS 545.381, 545.385, 545.387, 545.389, 545.391 and 545.413. Land noncontiguous to an irrigation district may be included in the district as a unit at the time of the organization of the district or at any subsequent time. Prior to the completion of the works for the reclamation of any units the lands in the units may be assessed as appears equitable to the board, subject to the rights of land owners in the district to have the assessments adjusted by the board of equalization and to appeal therefrom. However, all reclaimed or improved lands, whether irrigated or not, shall be subject to assessment for the payment of any obligation of the district. [Formerly 545.444; 1999 c.452 §25]

**545.397 Districts developed by units; validation.** The reclamation, division, improvement and assessment of lands within any irrigation district in units, made before June 2, 1927, are hereby validated. [Formerly 545.446]

**545.399 Contract with United States; annual assessments or direct billings.** When an irrigation district has entered into any contract with any governmental agency of the United States for a loan under ORS 548.305 to 548.325, the board of directors of the district may levy annually assessments upon the lands in the district or bill the water users directly for the purpose of carrying out and complying with the terms and provisions of the contract. [Formerly 545.382]

**545.401 Deposit of moneys in special fund; uses.** All moneys realized from any assessments levied under ORS 545.399 shall be deposited by the treasurer of the district into a special fund, which shall be used solely for the purpose of carrying out and complying with the terms of the contract and the payment of installments of principal and interest falling due upon any bonds issued pursuant to the contract. [Formerly 545.384]

**545.402** [Amended by 1995 c.42 §68; renumbered 545.315 in 1995]

**545.404** [Amended by 1995 c.42 §69; renumbered 545.319 in 1995]

**545.406** [Amended by 1995 c.42 §70; renumbered 545.323 in 1995]

**545.408** [Amended by 1969 c.124 §1; 1995 c.42 §60; renumbered 545.287 in 1995]

**545.410** [Amended by 1969 c.124 §2; 1995 c.42 §61; renumbered 545.291 in 1995]

**545.412** [Amended by 1969 c.124 §3; 1995 c.42 §62; renumbered 545.293 in 1995]

#### (Assessment Procedure)

**545.413 Record of assessments and apportionments; error in description; evidence.** The board shall prepare a list or record of the assessments and apportionments in duplicate, giving the description of the ownership or holdings of each person assessed or apportioned. One copy of the list or record shall be a permanent record in the office of the board. Any irregularity or error in the description shall not be considered jurisdictional, or render the assessment void, if the land assessed can be identified. The assessment and apportionment made by the board of directors is prima facie evidence that all the requirements of the law in relation to the assessment and apportionment have been complied with and that the assessments are liens against the property to the same extent as other taxes lawfully levied. [Formerly 545.440]

**545.414** [Amended by 1969 c.124 §4; repealed by 1993 c.771 §20]

**545.416 Equalization of assessment and apportionment of taxes; notice of time of meeting of board; public inspection of list.** Not more than 30 nor less than 10 days before the annual date specified by the board of directors as provided in ORS 545.418, the secretary of the board shall give notice of the time the board, acting as a board of equalization, will meet for the purpose of reviewing and correcting its assessment and apportionment of taxes, as provided in ORS 545.418. The secretary of the board shall publish the notice at least once in a newspaper published in each county in which the district is situated. The board shall meet for this purpose on the date specified by the board as provided in ORS 545.418. In the meantime the assessment list and record



shall remain in the office of the secretary of the board, for the inspection of all persons interested. All persons shall be presumed to have notice of the time of the meeting, whether they receive actual notice or not. [Formerly 545.448]

**545.418 Meeting of board; duration; hearing and determination of objections to assessments and apportionment; changes.** The board of directors shall meet annually on a date specified by the board as a board of equalization. As a board of equalization, the board of directors shall continue in session from day to day, as long as necessary, to hear and determine any objections by any interested persons to the assessments and apportionment of assessments made under the Irrigation District Law. The board of directors shall also hear and determine any other matters connected with assessments and their apportionment that may come before them. The board shall change its assessment and apportionment and the list and record of the assessment and apportionment in any respect and manner that may be necessary to make the assessment and apportionment just and in accordance with the facts. The secretary of the board of directors shall be present during sessions of the board of equalization, and shall note all changes made in the assessment, apportionments, lists and records and names of the persons whose property is listed. [Formerly 545.450]

**545.420 Certification of assessments to county assessors; entry on assessment roll; collection of taxes; deposit of sums collected; disbursements from fund; taxation of state and federal lands.** (1) After the board has completed its assessment, it shall certify the assessment to the county assessor of each county in which district lands are situated. The certificate shall be made in the manner provided in ORS 310.060. The county assessor shall enter the apportionment upon the county assessment roll against the property described in the certificate, in the same manner that other municipal assessments are entered by the county assessor. However, the sum apportioned to and charged for operation and maintenance and the sums apportioned for all other purposes shall be entered by the assessor separately on the assessment roll as the irrigation district taxes against the property.

(2) The taxes shall be collected and accounted for in the same manner as other municipal taxes, and the collection enforced in the same manner as the other taxes of the county, except that the tax collector shall collect and account for the tax for operation and maintenance separate from the taxes levied by the district for other purposes. When paid to the county treasurer, all taxes

or assessments levied and collected for operation and maintenance shall be carried in a fund to be known as the operation and maintenance fund. All warrants issued in payment for operation and maintenance shall be drawn against and paid out of that fund.

(3) Any land, title to which is vested in the state, including lands segregated under the Carey Act or state lands sold under contract, in any irrigation district, shall be subject to taxation by the district. The full amount of assessments due against the lands shall be paid to the district before the same is sold, resold or contract for sale executed. The public lands of the United States within the district, whether entered or unentered, shall be subject to taxation under the Act of Congress of August 11, 1916. [Formerly 545.452]

**545.422 Nonperformance by board; assessment, levy and equalization by county court.** In case of neglect or refusal of the board of directors to have the assessment and levy made, the assessment and levy shall be made and equalized by the county court of the county in which the office of the board of directors is situated. The county court, while sitting for the transaction of county business, shall make the assessments and levy in the same manner that the court levies county taxes. An assessment and levy made by the county court shall have the same effect as an assessment and levy made by the board of directors. All expenses incident to an assessment and levy made by a county court under this section shall be borne by the district. The levy and assessment shall be entered on the county tax roll by the county assessor in the manner provided in ORS 545.420. [Formerly 545.454]

**545.424 Validation of assessments; defective entry on assessment roll; lands partly outside district.** When the assessments were made substantially in accordance with ORS 545.381, 545.385, 545.387, 545.389, 545.391 and 545.413, all assessments made before May 24, 1933, against real property within any irrigation district by the board of directors of the district are hereby validated. The assessments shall be a lien upon the real property described in the assessment, notwithstanding that the assessments were not entered on the county assessment roll against the property described as provided by ORS 545.420. Any assessment levied against lands partly within and partly outside the boundaries of any irrigation district shall not be void because the lands are partly outside the district, but shall constitute a valid assessment against that portion of the lands described in the assessment lying within the boundaries of the irrigation district. [Formerly 545.456]

**545.426 Misnomer or mistake relating to ownership not to affect sale.** When land is sold for assessments correctly imposed as the property of a particular person, no misnomer of the owner or supposed owner, or other mistake relating to the ownership, shall affect the sale or render it void or voidable. [Formerly 545.458]

**545.428 Collection of assessments by board secretary; purpose; treatment of unpaid assessments.** For the purpose of providing moneys for payment of the bonds of an irrigation district and interest on the bonds, the board, by resolution, may provide for the collection of its assessments from the irrigable land within the district and require the collection to be made by the secretary of the board. The board may direct the time and manner of making the collection and may require the assessments to be paid in advance of the delivery of water. Any charges or assessments remaining unpaid on any land within the district at the end of an irrigation season may be placed upon an assessment list in accordance with ORS 545.381 to 545.397 and 545.413 to 545.422. The charges and assessments shall constitute a lien upon the land and shall be collected as provided by ORS 545.420 and 545.422. [Formerly 545.522]

**545.430 Objections by bondholders; payment from funds otherwise obtained.** When any irrigation district provides for the collection of funds for the payment of bonds and bond interest in accordance with ORS 545.428, if thereafter any holder of bonds of the district objects in writing to that method of collection, the district shall pay the bonds from funds obtained in the manner provided in ORS 545.529, 545.532, 545.535 and 545.537. [Formerly 545.524]

**545.432** [Amended by 1969 c.694 §30; 1995 c.42 §85; renumbered 545.381 in 1995]

**545.433** [1955 c.36; §2; 1961 c.388 §1; 1989 c.182 §26; 1995 c.42 §86; renumbered 545.385 in 1995]

**545.434** [Amended by 1989 c.182 §27; 1995 c.42 §87; renumbered 545.387 in 1995]

**545.436** [Amended by 1995 c.42 §88; renumbered 545.389 in 1995]

**545.438** [Amended by 1995 c.42 §89; renumbered 545.391 in 1995]

**545.440** [Amended by 1995 c.42 §94; renumbered 545.413 in 1995]

**545.442** [Amended by 1995 c.42 §90; renumbered 545.393 in 1995]

**545.444** [Amended by 1989 c.182 §28; 1995 c.42 §91; renumbered 545.395 in 1995]

**545.446** [Renumbered 545.397 in 1995]

**545.448** [Amended by 1987 c.835 §2; 1995 c.42 §95; renumbered 545.416 in 1995]

**545.450** [Amended by 1987 c.835 §3; 1995 c.42 §96; renumbered 545.418 in 1995]

**545.452** [Amended by 1955 c.93 §1; 1973 c.305 §17; 1991 c.459 §424; 1995 c.42 §97; renumbered 545.420 in 1995]

**545.454** [Amended by 1995 c.42 §98; renumbered 545.422 in 1995]

**545.456** [Amended by 1995 c.42 §99; renumbered 545.424 in 1995]

**545.458** [Renumbered 545.426 in 1995]

### (Unpaid Assessments)

**545.460 Withholding water while assessments are unpaid; accepting security for payment of assessments.** The board of directors of an irrigation district may withhold delivery of water to any land within the district until such time as unpaid assessments appearing on the county tax rolls levied against the lands for any prior year, as the board may direct, are paid. A board of directors may accept promissory notes, chattel or real property mortgages or other security, as security for the payment of any delinquent assessments. [Amended by 1995 c.42 §102]

**545.462 Cancellation or compromise of assessment liens on lands acquired by county for taxes.** The board of directors of an irrigation district may cancel or compromise any liens for unpaid assessments of the district on lands which have been acquired for taxes by a county. [Amended by 1995 c.42 §103]

**545.464 Order to tax collector to cancel or change liens; correction of delinquent tax rolls.** When the board of directors considers it to be for the best interests of the district to compromise or cancel any unpaid assessments of the district on lands acquired by a county for taxes, the board shall make an order to the tax collector of the county in which the lands are situated to cancel or change the existing irrigation liens. Upon receipt of the order, the tax collector shall correct the delinquent tax rolls in accordance with the order of the board. [Amended by 1973 c.305 §18; 1995 c.42 §104]

**545.466 Effect of ORS 545.462 and 545.464 on existing laws.** ORS 545.462 and 545.464 do not repeal or amend any existing law relating to the manner of collection of unpaid irrigation district assessments. [Amended by 1995 c.42 §105]

### (Exemptions)

**545.468 Exemption of parcel of land from payment of charge or assessment; qualification of owner of excluded parcel as district elector.** (1) In addition to and notwithstanding any other provision in this chapter, the board of directors of an irrigation district, by resolution, may exempt a parcel of land in the district from payment of any charge or assessment authorized by this chapter when:

(a) The parcel of land is unable to receive water from the district for irrigation or do-

mestic use and the parcel consists of two acres or less; or

(b) The water right appurtenant to the parcel has been transferred by the district to other land within the district under ORS 540.572 to 540.580, and the other land has been included in the district subject to the liens and charges or assessments of the district for the delivery of irrigation water.

(2) The owner of a parcel of land exempt from payment of charges or assessments under this section is not an elector of the district unless the owner qualifies as an elector through ownership of other land within the district. [1985 c.581 §4; 1991 c.957 §14; 1995 c.42 §106]

#### **(Charges for Water Supply and Retirement of Warrants)**

**545.471 Charges for water supply; rates; collections and disbursements; basis of charges.** (1) For the purpose of defraying the expenses of the organization of the district, and of the care, operation and management, repair and improvement of the portions of the canals and works that are completed and in use, including salaries of officers and employees, the board shall fix charges for irrigation and other public uses. The board, by resolution, may provide for collecting the charges from all persons using the canals for irrigation and other purposes, and may require the collection to be made by the secretary of the board and disbursed by the secretary on order of the board.

(2) The board may designate the time and manner of making the collections of charges, may require them to be paid in advance of the delivery of water and may accept short-term interest-bearing notes for any portion of the charges. In establishing its charges, the board may consider the quantity of water to be delivered, the acres of land entitled to benefits from the district, the establishment of uniform or graduated rates and minimum charges, the imposition of additional charges for special services and for small tracts or other properties which require proportionately greater maintenance and operation and other factors the board considers reasonable and appropriate. The board may base its charges upon any or all of the factors set forth in this subsection.

(3) In addition to the charges authorized under subsections (1) and (2) of this section, the board may pass on charges against individual water users when the district incurs charges, fees, fines or similar expenses for extraordinary services performed by the district at the request of the water user or that are incurred by reason of some action or failure to act by the water user. [Formerly 545.108; 1999 c.452 §26]

**545.473 Districts providing for collection of charges by board secretary; levy of percentage of annual rates.** Upon approval by the board of directors, an irrigation district that provides for collection of operation and maintenance charges by the secretary of the board in accordance with ORS 545.471, and that has outstanding operation and maintenance warrants that have been issued for more than one year, may levy a charge not to exceed 20 percent of the annual rates fixed for operation and maintenance. The charge shall be levied and collected for the purpose of retiring outstanding operation and maintenance warrants of the district. [Formerly 545.542]

**545.475 Lands subject to assessment.** An assessment made under ORS 545.475, 545.477 and 545.479 for the purpose of providing funds for the retirement of outstanding warrants shall be assessed against all the irrigable lands within and a part of the district. The assessment shall not be made as a part of the tolls or charges to be collected from lands lying outside the district. [Formerly 545.544]

**545.477 Collection of charges; acceptance of district warrants; disposal of moneys collected.** An irrigation district that levies any tolls or charges in accordance with this section, ORS 545.473, 545.475 and 545.479 for the purpose of retiring operation and maintenance warrants shall collect the charges in the same manner as the annual tolls and charges for operation and maintenance are collected, except that the district shall accept warrants of the district in payment of assessments made for the purpose of retiring warrants. Upon the receipt of any moneys levied for the purpose of retiring warrants, the secretary of the board shall immediately pay the moneys to the treasurer of the district, who shall place such moneys in an operation and maintenance fund. [Formerly 545.546]

**545.479 Provisions not exclusive nor operative to relieve district of duty respecting obligations.** ORS 545.473, 545.475 and 545.477 are not exclusive and do not relieve any irrigation district from the duty of levying sufficient sums for the payment of all outstanding obligations as otherwise provided by law. [Formerly 545.548]

#### **ALTERNATIVE METHOD OF COLLECTING INCURRED CHARGES**

**545.482 Authorization of method for billing and collecting incurred charges.** The board of directors, by resolution, may provide for the billing and collection of incurred charges of the district in the manner provided in ORS 545.482 to 545.508, in lieu of the method provided for in ORS 545.381 to

545.397, 545.413 to 545.422 and 545.683. A resolution under this section may be adopted either before or after the district has commenced to deliver water through all or any part of its canal or distribution system. If the consent of all the holders of outstanding bonds of the district has been obtained, the resolution may provide for the collection of incurred charges for the purpose of retiring bonds and payment of interest on the bonds, or any part of the bonds. [Amended by 1959 c.223 §1; 1987 c.694 §1; 1991 c.459 §423c; 1993 c.270 §70; 1995 c.42 §112; 2001 c.476 §1]

**545.484 Computation of amount to be raised; apportionment of charges; fixing due date and delinquency date; fee for other services.** (1) At least once in each year the board of directors of an irrigation district that has provided for the collection of its own incurred charges as provided by ORS 545.482 to 545.508, by resolution, shall make a computation of the total amount of money necessary to be raised by the district for the ensuing year for the purpose of carrying out the Irrigation District Law, including an allowance for delinquencies in collections. When making the computation, the board shall consider the amounts of money necessary for:

- (a) The care, operation and maintenance of district facilities;
- (b) Reasonable reserve funds for major maintenance, improvement and replacement of capital improvements and facilities;
- (c) The acquisition of land or water rights;
- (d) Bond or interest payments, or payments due or to become due to the United States or the State of Oregon under any contract of the district with the United States or the State of Oregon; or
- (e) Other expenses of the district.

(2) The resolution shall fix the time when the incurred charge becomes due and payable. The resolution shall also fix a time, within one year after the date the incurred charge becomes due and payable, after which the incurred charge becomes delinquent.

(3) The amount determined by the board shall be apportioned by the board to the lands owned or held by each person so that each acre of land in the district that is entitled to irrigation is required to pay the same amount, except as otherwise provided in ORS 545.385, 545.387, 545.389, 545.391 and 545.487. Land owned by a person constituting a fractional portion of an acre may be rounded to the next higher whole acre.

(4) A district that provides drainage or other services to lands that are not entitled to irrigation services from the district may, at the discretion of the district's board of di-

rectors, charge a different fee for the provision of those services.

(5) The annual incurred charges established by the resolution shall continue in effect from year to year until changed by a resolution of the board of directors.

(6) A person is deemed to have requested water and other services and improvements provided by the district if the person signed a petition requesting the formation of an irrigation district under ORS 545.025, requested that the land of the person be included in the district pursuant to ORS 545.057 or paid an incurred charge on or before the delinquency date fixed by the resolution and the person has not:

- (a) Excluded the land from the district pursuant to ORS 545.099;
- (b) Transferred all water rights from the land pursuant to ORS 540.505 to 540.585 for the period of time that the incurred charge was incurred; or
- (c) Otherwise requested that water and other services and improvements no longer be provided to the land.

(7) Notwithstanding subsection (3) of this section, if a person was denied approval to transfer all water rights from the land pursuant to ORS 540.523 or 540.530 or another provision for the period of time that the incurred charge was incurred, the district may assess an incurred charge against the person only if the incurred charge is based on the actual quantity of water used by the person. [Amended by 1987 c.694 §2; 1991 c.459 §423d; 1995 c.42 §113; 2001 c.476 §2]

**545.486** [Amended by 1971 c.46 §1; repealed by 1991 c.459 §423s]

**545.487 Pressurization charge; application to certain lands; apportionment.**

(1) An irrigation district that charges for water delivery in the district under the provisions of ORS 545.482 may charge a pressurization charge, in addition to the regular charge. The pressurization charge may be charged against the lands that have appurtenant water rights and to which irrigation water is furnished or is available for delivery by pipe and under pressure. However, a pressurization charge may not be charged unless delivery of water by pipe and under pressure to these lands requires operation, construction and maintenance costs greater than the operation, construction and maintenance costs involved in delivering water to the nonpiped and nonpressurized lands in the district.

(2) The board may apportion a pressurization charge allowed under subsection (1) of this section to the water users of the lands served by pipe and pressurized water so that each acre of irrigable land in the district

that has piped and pressurized water to it shall be required to pay the same per acre pressurization service charge. [1989 c.182 §2; 1991 c.459 §423e; 1995 c.42 §114]

**545.488** [Amended by 1989 c.182 §29; repealed by 1991 c.459 §423s]

**545.490** [Repealed by 1991 c.459 §423s]

**545.492** [Repealed by 1991 c.459 §423s]

**545.494 Unpaid charge as lien on land; priority respecting other liens and claims.** (1) If any incurred charge remains unpaid beyond the due date of the incurred charge, the secretary of the district may file a notice of claim of lien with the recording officer of the county of each county in which land is situated which received or was entitled to receive the benefit of the water delivery for which the incurred charge has been made. The notice of claim of lien shall be in writing and must contain:

(a) The name of the water user to whom the water was delivered or was deliverable;

(b) A statement of the amount claimed past due; and

(c) A description of the land which received or was entitled to receive the benefit of the water delivery sufficient for identification.

(2) Upon filing of the notice, the incurred charge and costs of filing and removing the notice shall become a lien upon all lands described in the notice in the amounts set forth opposite each tract of land. The lien shall be prior to all encumbrances of whatever kind or nature, whether executed before or after the lien of the irrigation district is created, or whether recorded or registered or not. The lien of the irrigation district upon each tract of land shall be subject to all lawful taxes levied and assessed for state and county purposes by the county in which the land is located. The lien of the irrigation district shall not be subject or inferior to any claim, lien or assessment of any other taxing district, whenever levied, or whether extended on the county tax rolls for collection or not. [Amended by 1991 c.459 §423f; 1995 c.42 §115; 2001 c.476 §5]

**545.496 Collection of incurred charges; withholding of water until payment; interest on unpaid charges.** (1) Incurred charges under ORS 545.482, 545.484 and 545.494 shall be collected by the secretary of the district. The district may withhold delivery of water from any tract of land until the incurred charges for the current year and any prior years, including interest and lien and collection costs and fees, are paid in full.

(2) If an incurred charge, or any installment of an incurred charge, under ORS 545.482, 545.484 and 545.494 is not paid when due, interest shall be charged and collected

on the incurred charge or installment at the rate of one and one-third percent per month, or fraction of a month, until paid.

(3) If a notice of claim of lien has been filed under ORS 545.494, the costs of the filing and any costs of removing the lien, including but not limited to recording and filing fees, title search fees and a reasonable administrative fee, shall be charged and collected. [Amended by 1981 c.71 §1; 1991 c.459 §423g; 1993 c.771 §16; 1995 c.42 §116; 1995 c.754 §8; 2001 c.476 §3]

**545.498 Surety bond to be given by board secretary prior to handling district funds.** Before handling or receiving any funds or collecting any incurred charges as provided in ORS 545.482 to 545.508, the secretary of the district shall give a good and sufficient surety bond by an authorized surety company, in an amount that the board of directors may determine. The cost of the bond shall be paid by the district. The bond shall be approved by the board and filed in the office of the district. The amount of the bond may be varied from time to time by order of the board. [Amended by 1991 c.459 §423h; 1995 c.42 §117; 2001 c.476 §6]

**545.500** [Amended by 1991 c.459 §423i; 1995 c.42 §118; repealed by 2001 c.476 §11]

**545.502 Foreclosure; procedure; redemption after sale; attorney fees.** (1) At any time after the delinquency date fixed by the resolution and upon the filing of the notice of claim of lien under ORS 545.494, the board by resolution may direct that all delinquent incurred charges then unpaid shall be foreclosed by the district. The foreclosure shall follow the general procedure of a suit in equity and be filed in the circuit court for the county in which the land to be foreclosed is situated. If land in two or more counties is to be foreclosed, separate proceedings shall be commenced in each county as to the lands in that county. In addition to such incurred charges being foreclosed, the district may recover in the suit the costs and disbursements and expenses of foreclosure, including but not limited to recording and filing fees, title search fees, foreclosure reports and a reasonable administrative fee. Any number of tracts of land may be foreclosed in the same suit, without regard to whether they are delinquent for the same or different incurred charges, or for the same or several years. The judgment shall order the sale of the property and order the sheriff of the county to hold the sale in the same manner as other foreclosure sales. The sheriff shall fix the time for holding the sale and give notice of the sale for two consecutive weeks prior to the day of sale by publication of no-

tice once each week in a newspaper published in the county in which the land to be sold is situated. The sheriff shall also post notices in three public and conspicuous places within the county at least two weeks prior to the day of sale. The irrigation district may be a bidder and purchaser of the property at the sale.

(2) Property sold under this section may be redeemed within 180 days from the date of sale by the:

(a) Former owner whose right and title were sold, or the heir, devisee or grantee of the former owner; or

(b) Holder of legal or equitable title or lien upon the land.

(3) A person who redeems the property under subsection (2) of this section shall pay the amount provided in ORS 18.582 (2).

(4) The court may award reasonable attorney fees to the prevailing party in a foreclosure action under this section. [Amended by 1981 c.897 §61; 1991 c.459 §423j; 1993 c.771 §17; 1995 c.42 §119; 1995 c.618 §83; 2001 c.476 §4; 2003 c.576 §498; 2005 c.371 §1]

**Note:** 18.582 was repealed by section 73, chapter 542, Oregon Laws 2005. The text of 545.502 was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 545.502 for the repeal of 18.582 has not been made.

**545.504 Redemption of land upon or prior to foreclosure sale.** At any time prior to sale, or at the time of sale, as provided by ORS 545.502, the former owner, incurred charge payer, or holder of legal or equitable title or lien upon or to any tract of land included in the foreclosure and judgment may withdraw the tract of land from the foreclosure and sale by paying the amount of the lien foreclosed, together with the amount of state and county taxes that the irrigation district may have paid, and a proportionate amount of the costs incurred in the foreclosure proceeding. If the payment is to be made prior to the judgment, the payment shall be tendered to the clerk of the court, together with written appearance in the suit. If the payment is to be made after the judgment is entered, the payment shall be tendered to the sheriff ordered to hold the sale. If payment is made before judgment, the tract shall be dismissed from the foreclosure proceeding. If payment is made after judgment, the district shall issue satisfaction of lien to the former owner, incurred charge payer, or holder of legal or equitable title or lien upon the tract, and file the satisfaction of lien for record. [Amended by 1991 c.459 §423k; 1995 c.42 §120; 2001 c.476 §7; 2003 c.576 §499]

**545.506 Payment of taxes by district; amount paid added to lien.** At any time after any incurred charge on a tract of land under ORS 545.482 to 545.508 becomes delinquent, the irrigation district may pay any state and county taxes that are due or delinquent on the tract of land and add the amount paid to the lien of the district against the tract. [Amended by 1991 c.459 §423L; 1995 c.42 §121; 2001 c.476 §8]

**545.507 Borrowing for payment of operation and maintenance costs.** When authorized by a resolution of its board of directors, an irrigation district whose board of directors has provided for the collection of incurred charges of the district in the manner provided in ORS 545.482 to 545.508 may:

(1) Borrow moneys for payment of its operation and maintenance costs and expenses in an amount not to exceed 50 percent of the operation and maintenance charge per acre for each acre within the district or the amount of its uncollected charges for operation and maintenance, whichever is greater; and

(2) Issue and deliver as evidence of the indebtedness the promissory notes of the district bearing interest. The promissory notes shall be payable at such time as its board of directors shall determine and may contain provisions for payment of the attorney fees of the holder of the notes if suit or action is commenced for the collection of the notes. The district may agree that all or any part of the uncollected incurred charges shall be applied in payment of the promissory notes when collected. [1955 c.362 §2; 1989 c.182 §30; 1991 c.459 §423m; 1995 c.42 §122; 2001 c.476 §9]

**545.508 Moneys collected; deposit; separation of funds; disbursements.** (1) Any irrigation district collecting incurred charges as provided in ORS 545.482 to 545.508 shall deposit all moneys collected in an insured institution, as defined in ORS 706.008, selected by the board of directors. The amounts collected for operation and maintenance, construction, bond principal, interest or other purposes shall be kept in separate funds and accounted for separately.

(2) Moneys in the funds shall be paid out only upon order of the board by:

(a) Checks or drafts signed by at least two individuals authorized by the board to sign checks or drafts; or

(b) Electronic funds transfers authorized by the board and initiated by at least two individuals authorized by the board.

(3) As used in this section, “electronic funds transfer” has the meaning given that term in ORS 293.525. [Amended by 1967 c.451 §24; 1991 c.459 §423n; 1995 c.42 §123; 2001 c.476 §10; 2005 c.492 §1]

## **BONDS; CONTRACTS WITH STATE OR FEDERAL GOVERNMENT**

### **(Authorization for Bonds or Contracts)**

**545.511 Authorization of bonds, including refunding bonds; contract with state or with United States; election; notice.** (1) Upon order of the board of directors entered in the records of the board, an election shall be held to determine:

(a) Whether bonds in any amount the board may consider necessary shall be issued for any purpose necessary or convenient in carrying out the Irrigation District Law, including the refunding of outstanding bonds; or

(b) Except when an election is not required under ORS 545.513, whether the right to enter into an obligation or contract with the United States or the State of Oregon shall be authorized.

(2) Notice of the election must be given by posting notices in three public places in each election precinct in the district for at least 15 days prior to the election. Notice must also be given by publication of the notice in some newspaper published in the county in which the office of the board of directors is located. The notice shall be published in the newspaper once a week for at least four successive weeks prior to the election. For an election called to determine whether bonds will be issued, the notices must specify the time of holding the election and the amount of bonds to be issued. For an election called to determine whether a district will enter into an obligation or contract with the United States or the State of Oregon, the notices must specify the time of holding the election and, when bonds are not to be deposited, the maximum amount of money, exclusive of penalties and interest, payable to the United States or the State of Oregon for construction purposes or in the assumption of liability for district lands for construction purposes.

(3) The election shall be held and the result determined and declared in conformity as nearly as practicable with ORS 545.135 to 545.163. Informalities in conducting the election shall not invalidate the election, if the election has been otherwise fairly conducted. The ballot shall contain the words “Bonds—Yes” and “Bonds—No,” or “Contract with the United States or the State of Oregon, as appropriate,—Yes” and “Contract with the United States or the State of Oregon, as appropriate,—No,” or other equiv-

alent words. If a majority of the votes cast are “Bonds—Yes,” the board shall cause bonds in that amount to be issued, or such portion of the bonds as may be necessary from time to time. If a majority of the votes cast are “Contract with the United States or the State of Oregon, as appropriate,—Yes,” the board may negotiate and execute a contract with the United States or the State of Oregon. If the majority of the votes cast are “Bonds—No,” or “Contract with the United States or the State of Oregon, as appropriate,—No,” the result of the election shall be declared and entered of record. [Formerly 545.192]

### **545.513 Resubmission of questions to electors; contracts not requiring vote.**

(1) When, after an election called under ORS 545.511, the board considers it to be for the best interests of the district that the question of the issuance of bonds, or the question of a contract in any amount with the United States or the State of Oregon shall be submitted to the electors, the board shall so declare in its minutes, and may then submit the questions to the electors in the same manner and with the same effect as at the previous election. However, an irrigation district may, without a vote of its electorate, enter into a contract with the United States or the State of Oregon which does not create or increase a construction charge indebtedness and which, in the judgment of the district board, is for the best interest of the district.

(2) A district may, without a vote of the district electorate, enter into a contract with the United States or the State of Oregon for a loan in an amount that does not exceed the greater of \$25,000 or one-third of the average annual operations and maintenance budget of the district for the three most recent years.

(3) If an emergency requires immediate repairs to the district delivery system to permit normal operation, the district may borrow moneys necessary for the repairs without a vote by the district electorate. [Formerly 545.194]

**545.515 Bonds; interest included in authorized amount.** When authorized by the electors, the bonds of a district may be issued so as to include a sum sufficient to pay the first four years’ interest, or less, to accrue on the bonds. [Formerly 545.196]

**545.517 Bonds securing payments to United States.** The contract provisions for the payment of construction charges to the United States may call for the payment of such interest, may provide for such installments and may provide for repayment of the principal at such times, as may be required by the federal laws and as may be agreed

upon between the board and the Secretary of the Interior. If bonds of the district are issued and deposited for the purpose of securing payment of construction charges to the United States, the bonds may be of such denomination and may provide for the payment of such interest as may be required by the federal laws and as may be agreed upon between the board and the Secretary of the Interior. [Formerly 545.198]

**545.519 Issuance of bonds; cancellation of bonds.** (1) Bonds shall be issued in accordance with ORS chapter 287A.

(2) Nothing in this section shall inhibit the district from providing for the irrigation or drainage in units or portions of units from time to time.

(3) The board by resolution entered on its records may cancel any bonds of the district that have not been sold or deposited as security for funds advanced or to be advanced, and that this state, the United States or any other person has no claim to or equity in. After the cancellation, the bonds shall not be sold or otherwise disposed of. After cancellation, the bonds shall be invalid and of no effect. The board may not replace bonds canceled under this subsection without authorization of the electors. [Formerly 545.202; 2007 c.783 §217]

**545.521 Bonds of districts organized before 1925 with indebtedness of \$50,000; retirement of outstanding bonds as condition of further indebtedness; authorization and sale of refunding bonds; application of proceeds; redemption.** (1) When an irrigation district organized prior to 1925 has an outstanding bonded debt in excess of \$50,000, if no actual construction of irrigation works has commenced, the irrigation district shall not create a further bonded debt, except from the issuance of refunding bonds, until the bonds outstanding and bonds issued to refund the outstanding bonds have been called and redeemed, or further refunded as a part of new proceedings taken to finance the construction of irrigation works.

(2) The district may issue refunding bonds to redeem or replace any of its outstanding bonds. The bonds may bear interest at a rate not exceeding six percent each year. The district shall sell the refunding bonds for not less than par value, after notice published for at least two weeks in a newspaper printed and published within the county in which the district is located. The proceeds of the sale shall be applied in payment of matured or maturing bonds. If the district receives no qualifying bids for the refunding bonds they may be exchanged on a par-for-par basis for the matured or matur-

ing bonds. The refunding bonds shall have serial maturity dates, not exceeding 20 years from issue date, as the board of directors shall specify. However, the board may issue the bonds with optional dates of redemption, and may provide for their calling and retirement upon such interest payment dates as are indicated on the bonds. Notice of intention to redeem the bonds shall consist of a notice from the secretary of the district published within the county in which the district is located, or a direct notice from the secretary to the owner of the bonds, if known. The issuance of the refunding bonds shall not require an election of the voters of the district but shall be done by resolution of the board of directors. [Formerly 545.218]

**545.522** [Amended by 1969 c.694 §31; 1991 c.459 §423o; 1995 c.42 §100; renumbered 545.428 in 1995]

**545.524** [Amended by 1969 c.694 §32; 1995 c.42 §101; renumbered 545.430 in 1995]

**545.526** [Repealed by 1969 c.345 §20]

### (Bonds and Contracts as General Obligations)

**545.529 Bonds and payments payable from assessments; liability of lands.** The bonds and the interest thereon and all payments due to the United States or the State of Oregon under any contract between the district and the United States or the State of Oregon, for which bonds of the district have not been deposited with the United States or the State of Oregon, and all obligations for the payment of money authorized and incurred under the Irrigation District Law, shall be general obligations of the district and shall be paid by the revenue derived from the annual assessments upon the land in the district. All the lands in the district shall be and remain liable to be assessed for such payments as provided in the Irrigation District Law. [Formerly 545.204]

**545.530** [1969 c.694 §33; see 545.526; repealed by 1971 c.36 §11]

**545.532 Increase of assessments to meet defaults; property liable for indebtedness; possession of works upon default.** When the amount assessed against any tract of land is not paid, the next assessment against the land in the district shall be increased so as to take care of the default. All the property of the district, including irrigation and other works, shall be liable for the indebtedness of the district. The holder of bonds, or the United States or the State of Oregon when a contract has been executed by the United States or the State of Oregon, may, if a default occurs in the payment of interest or principal on the bonds, or the amount due on the contract, upon the order of the circuit court, take possession of the irrigation and other works of the district



and operate those works until the amount in default is fully paid. [Formerly 545.206]

**(Payment of Assessments for Bonds and Contract Obligations)**

**545.535 Lien against assessed lands; priority.** Any assessment upon land shall be a lien against the property assessed. The lien for all payments due under any contract with the United States or the State of Oregon or for the payment of principal or interest of bonds deposited with the United States or the State of Oregon shall be a preferred lien to any assessments for bonds issued subsequent to the date of the contract or the issuance of the bonds deposited with the United States or the State of Oregon. A district assessment lien shall not be removed until the assessments are paid with interest and penalties or the property sold for the payment of the assessments, together with interest and penalties. [Formerly 545.208]

**545.537 Sale of lands for delinquency; purchase by district.** The district shall appear as a bidder at the sale of any lands for delinquent assessments or taxes. The district may purchase and take title to the lands and dispose of the lands like any other purchaser. When at a tax sale there is no other bid for the full amount of the delinquencies, including interest and penalties, the district shall bid and buy in the land to protect its assessments. However, the district shall never bid or pay a greater sum than the total of all delinquent assessments and taxes against the land plus interest and penalties. When purchasing any land at a tax sale, the district shall pay cash for all assessments, taxes, interest and penalties, including the district assessments. Such expenditures shall be deemed operating expenses of the district and may be assessed as maintenance charges. [Formerly 545.210]

**545.539 Bond sinking funds; other funds.** (1) The district treasurer or the county treasurer of the principal county, as defined in ORS 198.705, if designated in the bonds, shall keep a "Bond Fund," a "United States or the State of Oregon (as appropriate) Contract Fund" or a "Bond and United States or the State of Oregon (as appropriate) Contract Fund." All money arising from the sale of refunding bonds and from assessments and levies shall be deposited in the appropriate fund until there is sufficient money in the fund to meet the next installment of principal and interest upon bonds of the district and to meet all payments due to the United States or the State of Oregon for construction and other purposes. From the appropriate fund the district treasurer or the county treasurer shall pay money due as principal and interest on bonds as they ma-

ture and the bonds and coupons are presented and shall make payments to the United States or the State of Oregon when due.

(2) Money received from the sale of bonds and otherwise for construction or acquisition of works by the district shall be deposited into a "Construction Fund."

(3) All other money received by the district shall be deposited into a fund known as the "General Fund," from which shall be defrayed all obligations of the district other than those described in this section.

(4) Each fund listed in subsection (1) of this section shall be used for payment of the obligations of the district that are payable from that fund in the order of the priority of the creation of the obligations. [Formerly 545.212]

**545.541 Retirement of bonds prior to maturity.** (1) If, after 10 years from the issuance of bonds, the appropriate fund amounts to \$10,000, the board of directors may direct the district treasurer or county treasurer of the principal county, as defined in ORS 198.705, if designated in the bonds, to pay that amount of the bonds not due as the money in the fund will redeem at the lowest value at which they may be offered for liquidation, or the board may call bonds at a premium of three percent, as provided in subsection (2) of this section.

(2) The board may call for payment and retire before maturity any bonds issued in accordance with ORS 545.511, 545.513, 545.515, 545.517 and 545.519, by paying principal and accrued interest and a premium of three percent upon the principal. Notice of intention to do so shall be given by publication in a newspaper published and regularly circulated in the county in which the district lands are situated. The notice shall be printed at least once a week for four successive weeks, beginning not less than 90 days prior to an interest-paying period. The notice shall state the number and amount of the bonds to be retired, the price to be paid, the date of payment and the place where payment is to be made. Bonds shall be retired in numerical order in the manner specified in the bonds. Newspaper publication of notice of redemption is not required for bonds that are in registered form. Bonds shall not be retired under this section except on a day when interest is payable by the terms of the bonds and on and after the date named in the notice. Interest on bonds described in the notice shall cease after the date named in the notice.

(3) Notwithstanding anything contained in this section, the board may issue bonds in the manner prescribed in ORS chapter 287A. [Formerly 545.214; 1997 c.171 §20; 2007 c.783 §218]

**545.542** [Amended by 1995 c.42 §108; renumbered 545.473 in 1995]

**545.544** [Amended by 1995 c.42 §109; renumbered 545.475 in 1995]

**545.545 Determination of liability of individual tracts for bonded indebtedness; acceptance of bonds and cash in payment.** (1) Upon application by any owner of a tract of land within the district, the board of directors of any irrigation district may determine the proportionate part of the liability of the tract for assessment in payment of the outstanding bonded indebtedness. In determining the amount of liability, the board shall take the total amount of bonds outstanding and divide this sum by the total irrigable acres and multiply the quotient by the total irrigable acres in the tract. In any district in which the cost has been divided into units, the board shall determine the proportionate amount of liability in the same manner, using the total amount of bonded indebtedness apportioned to the unit and the irrigable area in the unit. After determining the total apportioned part of the liability of any tract for the payment of bonded indebtedness, the board of directors may accept the bonds of the district in payment of the total amount of the liability of the tract of land within the district. However, in addition to the bonds, a cash payment of not less than five percent of the total amount of liability on the tract shall be tendered and paid to the district at the time of delivery of the bonds.

(2) Except in case of default of the district, the board of directors may enter into an agreement with the owner of the tract of land who makes the payment, relieving the tract of all existing assessments and liens, except warranted indebtedness, state interest, and operation and maintenance. The transaction shall be recorded in the minutes of the board of directors of the district.

(3) Any additional cash payment collected by the board under subsection (1) of this section shall be deposited with the treasurer of the district and placed in a separate fund, which shall be used only for the retirement of bonds. [Formerly 545.216]

**545.546** [Amended by 1995 c.42 §110; renumbered 545.477 in 1995]

**545.548** [Amended by 1995 c.42 §111; renumbered 545.479 in 1995]

#### **(Issuance of Bonds by Certain Districts)**

**545.551 Application of ORS 545.553 and 545.555.** ORS 545.553 and 545.555 apply to an election to authorize the issuance of bonds by a district formed pursuant to a petition filed under ORS 545.025 (7). [Formerly 545.228]

**545.553 Petition for election on authorization and issuance of bonds.** When a petition requesting an election is filed with the board of directors, if the petition is signed by all of the owners of all lands within the district, an election shall be held to determine whether bonds of an irrigation district shall be authorized and issued as provided by this section and ORS 545.551, 545.555, 545.557 and 545.559. The petition shall state the amount of bonds to be authorized, the purposes for which the bonds are to be issued and the maximum time in which they may mature. Upon the filing of a petition under this section, the board shall proceed to call an election which shall be held within 20 days after the filing of the petition. [Formerly 545.230]

**545.555 Holding election; notice.** The election called pursuant to a petition filed under ORS 545.553 shall be held and the results determined and declared as provided by ORS 545.511 and 545.513 (1), except that:

(1) The maximum time in which the bonds may mature shall be submitted to the voters;

(2) The notice of the election need not be posted but must be published at least once, not more than 10 or less than three days prior to the election; and

(3) The form of the proposition on the ballot shall be set forth in the notice of the election. [Formerly 545.232]

**545.557 Bonds; maturities; reserves; interest; trustees.** (1) The Irrigation District Law applies to bonds authorized under ORS 545.553 and 545.555, except as otherwise provided by this section.

(2) The board of directors by resolution authorizing the issuance of all or part of a bond authorization may provide:

(a) The manner of the sale, public or otherwise, the denominations, the premiums if any for redemption prior to maturity, and whether or not the bonds shall be registerable as to principal or and principal and interest;

(b) For the setting aside and maintaining of reserves to secure the payment of the principal of the bonds and interest on the bonds, and reserves to maintain, equip, repair, renew, renovate and replace the improvements, facilities and equipment of the district;

(c) For the issuance, under proper terms and conditions, of additional or refunding bonds on a parity with the bonds being issued;

(d) For the creation of necessary funds and accounts; or

(e) All other terms, conditions, covenants and protective features safeguarding the payment of the bonds that are found necessary by the board.

(3) The bonds may be sold at not less than 90 percent of face value, and may bear interest, evidenced by coupons, at a rate not to exceed six percent per annum.

(4) The board may select a trustee for the owners and holders of the bonds, and also a trustee to safeguard and disburse the proceeds of the sale of the bonds. The rights, duties, powers and obligations of the trustee or trustees shall be fixed by the board. [Formerly 545.234]

**545.559 Bonds and coupons to be negotiable instruments.** Any bearer bonds and the coupons attached thereto issued under ORS 545.557 are fully negotiable instruments under the laws of the State of Oregon. [Formerly 545.236]

**545.562** [Amended by 1955 c.360 §1; 1995 c.42 §178; renumbered 545.683 in 1995]

**545.563** [1955 c.286 §2; 1995 c.42 §179; renumbered 545.685 in 1995]

**545.564** [Repealed by 1995 c.42 §184]

### ALTERNATIVE METHOD OF ISSUING BONDS

#### **545.565 Refunding bonds; procedure.**

Any irrigation district desiring to refund its outstanding indebtedness or issue bonds for any purpose may use the procedure provided by ORS 545.565 to 545.621 instead of other procedures provided by law. Before any decision is made to issue bonds under those sections the board of directors shall enter a resolution stating the purpose for which the bonds are to be issued and, if the bonds are to be used for refunding indebtedness, describing the bonds and indebtedness to be retired by the refunding bonds or from the proceeds of the sale of the refunding bonds. [Formerly 545.242]

**545.567 Determination of liability for assessment to pay bonds; determination on basis of irrigable area or benefits accrued.** After bonds have been authorized under ORS 545.565 to 545.621 but before they are offered for sale, the board of directors shall make a preliminary determination of the area and description of irrigable land in each legal subdivision or other described tract if held in separate ownership within the district. The board shall also make a preliminary determination of the proportionate share or liability of each tract for assessment in payment of the total amount of the bonds issued. The determinations shall be for the purpose of fixing the irrigable area or, if the assessment is based on benefits, the total benefits accruing from the existing or proposed improvement to each ownership and

tract, and of fixing the assessment in proportion to the benefits or irrigable area. The determination of benefits or irrigable area shall include a description of the land, name of the ownership, number or irrigable acres of each tract, proposed assessment against each tract, and such other data as may be necessary to identify the land and ownership. [Formerly 545.244]

**545.569 Amounts paid to owners for property or rights.** In fixing the proportionate part of the cost of reclamation that each owner of land shall pay, the amount to be paid to any owner for easements, rights of way, water rights or other property or rights required by the district shall be shown in a separate column and deducted from the amount that the owner would otherwise be required to pay. Assessments for the payment of the cost of reclamation and interest thereon shall be made accordingly. [Formerly 545.246]

**545.571 Notice of determination; publication; contents.** The board of directors shall give notice by publication of the preliminary determination provided for in ORS 545.567, once a week for four successive weeks in a newspaper published in each county in which the district lands are situated. The board shall also post a notice in three public places in the district at least 30 days prior to the date of hearing. The notice shall state:

(1) The time and place for hearing objections or remonstrances and entertaining suggestions as to the proposed assessment;

(2) The proposed determination of the benefits accruing from the existing or proposed improvement;

(3) The place where the record of the determination may be inspected; and

(4) That upon conclusion of the hearing the board will by resolution determine the proper assessment to be charged against each legal subdivision or other described tract if held in separate ownership and the total benefit accruing from the existing or proposed improvement to each legal subdivision or other described tract, but will exclude from the determination of benefits any benefits to accrue from the future operation and maintenance of the improvement. [Formerly 545.248]

**545.573 Equalization of assessments; hearings.** The board of directors shall sit as a board of equalization at the time and place stated in the notice, and shall continue in session from day to day as long as may be

necessary to hear and determine any objections, remonstrances or suggestions by any interested persons to the proposed assessment and apportionment or to the proposed determination of the total benefits accruing to a legal subdivision or other described tract. The board shall change its assessments and apportionment or determination of the total benefits accruing as the board considers necessary and proper so as to make the assessments, apportionment and determination of benefits legal, just and in accordance with the facts. The secretary of the board shall be present during these sessions and shall note all changes made in the assessments or determination of total benefits. [Formerly 545.250]

**545.575 Order determining benefits; order of assessment; "benefit surplus" defined.** (1) Upon completion of the hearing, the board of directors shall enter an order approving and adopting the determination of benefits resulting from the existing or proposed improvement, but excluding any benefits to accrue from the future operation and maintenance of the improvement. The order shall also fix the proposed assessments, the amount of assessments against each legal subdivision or other tract of land, and the total amount of benefits accruing to each legal subdivision or other tract held in separate ownership from the existing or proposed improvement.

(2) The order issued under subsection (1) of this section shall describe:

(a) The lands assessed;

(b) The name of the record owner of the lands assessed;

(c) The total amount of assessment, which shall be the proper pro rata share of the lands based upon the total proposed assessment;

(d) The installments in which the assessment may be paid;

(e) The rate of interest the assessment shall bear;

(f) The amount of the total benefit which will accrue to each legal subdivision or other described tract if held in separate ownership;

(g) The amount of benefit surplus; and

(h) Any other matters that are pertinent, necessary or considered expedient by the board of directors.

(3) As used in subsection (2) of this section, "benefit surplus" means the excess of the benefits accruing to each legal subdivi-

sion or other described tract, over and above the assessment against each.

(4) An error in the name of the owner of record described in an order entered under subsection (1) of this section shall not affect the validity of an assessment. [Formerly 545.252]

**545.577 Notice of proceedings; appeal to circuit court; notice and summons.** (1) All persons interested in any lands within the district shall be charged with notice of all proceedings at the hearing and proceedings subsequent to the hearing. Any person or landowner aggrieved by the action of the board of directors may within 30 days from the entry of the resolution appeal to the circuit court of the county in which the lands of the district are situated. If the district is situated in two or more counties and an appeal is taken to the circuit court of each county, then all appeals shall be consolidated in one action. If the counties are situated in more than one judicial district, the presiding judge of the Court of Appeals shall determine the judicial district in which the appeal shall be tried. The appeals shall be taken by giving a notice in writing and leaving a true copy of the notice with the secretary of the irrigation district.

(2) Upon the expiration of the time for service and filing of notices of appeal to the circuit court, if no appeal is taken from the resolution of the board, the resolution becomes final. If an appeal is taken, the circuit judge of the county in which the appeal is to be heard shall make an order directing the trial court administrator to have published once a week for four consecutive weeks in each county in which the lands in the district are situated, a notice and summons reading substantially as follows:

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In the Circuit Court of _____	)	
County, State of Oregon	)	
In the matter of Bonds and	)	Notice
Assessments of _____	)	
Irrigation District.	)	

All persons owning or claiming to own any lands within the above named irrigation district are notified that appeal has been made to the above entitled court from the resolution made and entered by the board of directors of the irrigation district on the \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, in which an assessment was made against certain lands in the district and described in the resolution together with a determination of the benefits accruing to the lands, and that bonds may be issued in the sum of \_\_\_\_ by the district. All persons owning lands within the district affected by the assessment or bonds are required to appear before this court on or

before the \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, and show cause, if any, why the assessment or determination of benefits should not be approved and the bonds not issued.

\_\_\_\_\_  
Trial Court Administrator  
for \_\_\_\_\_ County.

(3) The date required for appearance in the cause shall be a date to be fixed by the court, adjudged reasonable, and not less than 30 days from the date of the first publication of the notice. The proceeding shall be a proceeding in rem. All persons owning or claiming any interest in lands in the irrigation district shall appear and show cause why the assessment or determination of benefits should not be ratified and approved, and shall be bound by all subsequent judgments and orders made in the cause, without further notice. [Formerly 545.254; 1997 c.801 §130; 2003 c.576 §500]

**545.579 Pleadings; trial; appeal; finality of assessment order.** (1) The appellant and all persons appearing shall make a statement in writing of the grounds of appeal, and no further pleadings shall be necessary. The cause shall be tried in one action by the circuit court as an action not triable by right to a jury.

(2) Upon the entry of a judgment, any person aggrieved by the judgment may appeal to the Court of Appeals in the manner provided for other cases in equity. Notice of appeal shall be served on those appearing in the circuit court or their attorneys. Notwithstanding ORS 19.415 (3), the cause shall be tried de novo by the Court of Appeals as expeditiously as possible after the appeal is perfected. Upon the effective date of decision of the Court of Appeals, the circuit court shall enter such judgment as is directed by the Court of Appeals.

(3) If the resolution of the board of directors is affirmed it shall be considered an assessment against all the lands described in the resolution for the amount of the assessment and payable at the times specified in the resolution, as well as a final determination of the total benefits accruing from the existing or proposed improvements to the parcels of land described in the resolution. If the resolution is modified in any respect, the court shall specify the proper resolution to be entered, which shall be entered accordingly. If no appeal is taken from the resolution, it shall become final. [Formerly 545.256; 2003 c.576 §256; 2009 c.231 §9]

**545.581 Assessment installments.** When amortizing bonds are issued as authorized by ORS 545.585, the installments in which the assessments are to be paid shall

be in fixed amounts including both principal and interest, and only the principal portions of the installments shall be charged against total benefits in determining benefit surplus, as defined in ORS 545.575. [Formerly 545.258]

**545.582** [Amended by 1995 c.42 §10; 1995 c.78 §2; renumbered 545.051 in 1995]

**545.584** [Amended by 1995 c.42 §11; renumbered 545.057 in 1995]

**545.585 Bonds; issuance; purposes; form; amortization; maturities; negotiability; numbering; interest; denomination; registration; amount maturing annually; retirement.** (1) When the assessments have become final, the board of directors may authorize the issuance of bonds for the construction or acquisition of irrigation works or to refund the indebtedness of the district, including warrant indebtedness, bond indebtedness and interest certificates of indebtedness issued to the state. The bonds may be issued either in serial form or in a form providing for the annual payment of interest and principal in a single amount represented by coupons. However, the amortization of both interest and principal on the refunding bonds must be accomplished within the 50-year period immediately following the date of issue. All refunding bonds issued under ORS 545.565 to 545.621 shall be negotiable in form. If in serial form the bonds issued shall be numbered consecutively, commencing with number 1. The bonds shall mature serially in annual amounts so as to be approximately equal, principal and interest, in not less than five years nor more than 50 years after date of issue, as the board of directors determines. If the board of directors considers it advisable to submit the question of maturities at the bond election, then the bond shall mature as the electors determine.

(2) The bonds shall bear interest at a rate determined by the board of directors, payable semiannually on the first day of January and July of each year. The principal and interest shall be payable at the places designated in the bonds and coupons which may be the office of the county treasurer of the principal county, as defined in ORS 198.705. Except as otherwise provided by ORS 545.565 to 545.621, each of the bonds shall be in a denomination of not less than \$100 or more than \$1,000; shall be signed by the president and secretary; shall have the seal of the board of directors affixed to the bond; and shall bear on the back the registration certificate of the county treasurer, who shall sign as county treasurer and as ex officio treasurer of the district. Coupons for interest shall be attached to each bond and shall be signed with the engraved facsimile signature of the secretary.

(3) The county treasurer and the secretary of the district shall register the bonds in books kept in their offices for that purpose, and shall note in the books the number, date of issuance and sale, amount of bond, time of payment, rate of interest, number of coupons attached, and any other description proper for future identification of each bond. This section shall not be construed to require that any bond of the district must bear a registration certificate by the secretary.

(4) The total sum of bonds maturing in any one year, together with the interest due, shall not exceed the total of the maximum annual assessment for the retirement of the bonds and the payment of interest. Upon payment of the principal, the board of directors may call for payment and retire before maturity any bond issued in accordance with ORS 545.565 to 545.621. [Formerly 545.260]

**545.586** [Amended by 1995 c.42 §12; renumbered 545.059 in 1995]

**545.588** [Amended by 1995 c.42 §13; renumbered 545.061 in 1995]

**545.589 Recording of assessments; bond lien docket; payment by bonds or coupons; interest on unpaid assessments; lien on land; priority.** (1) Upon delivery of the bonds, the secretary of the irrigation district shall furnish to the county clerk of each county in which lands of the district are situated, a duly certified copy of the resolution of assessment. The resolution shall be promptly recorded in the records of deeds of the county. The county clerk shall provide a book, which shall be considered a bond lien docket of the irrigation district for the lands situated in that county, for the purpose of recording in the book the matters contained in the resolution, by setting forth, in separate columns, the description of the lands assessed, the total amount of the assessment, the yearly installments, when the installments become due, the rate of interest the installments shall bear, the amount of the total benefit which shall accrue to each legal subdivision or other described tract if held in separate ownership, and the amount of the benefit surplus, as defined in ORS 545.575, accruing to each legal subdivision or other described tract.

(2) The bond lien docket shall thereafter be a docket of liens and shall constitute the total assessment against the lands by reason of the bonds. The sum shall not be increased or added to by subsequent assessments because of any delinquency of the owner of any other tract or parcel of land in the payment of the assessment of the owner, except as provided in ORS 545.599. The bond lien docket shall also thereafter be conclusive evidence of the total benefits accruing to each legal subdivision or other described

tract held in separate ownership, by reason of the improvement.

(3) The tax collector shall receive any past-due bond of the irrigation district or any past-due interest coupon from any bond of the district in payment of any assessment made for the purpose of paying any installment that is due or past due and that appears on the bond lien docket. All unpaid assessments entered in the bond lien docket except installments designed for the payment of amortizing bonds shall bear interest at the rate of six percent per annum until the assessments and interest are paid. All unpaid assessments and interest shall remain a lien on each tract or parcel of land in favor of the irrigation district, and shall have priority over all other liens and encumbrances, except the liens of state, county and municipal taxes. [Formerly 545.262]

**545.590** [Amended by 1959 c.276 §5; 1995 c.42 §14; renumbered 545.067 in 1995]

**545.592** [Amended by 1995 c.42 §15; renumbered 545.071 in 1995]

**545.593** [1959 c.276 §4; 1991 c.459 §423p; 1995 c.42 §16; renumbered 545.075 in 1995]

**545.594** [Amended by 1995 c.42 §17; renumbered 545.079 in 1995]

**545.595 Payment of assessment; relief from further assessment.** At any time after issuance of the bonds, a landowner may relieve the land of the landowner from payment of the principal and interest assessed against the landowner by securing from the county clerk, on a form to be provided by the county clerk for that purpose, a certificate showing the lands assessed and the amount due. The certificate shall be signed and certified by the clerk under the seal of office. Upon its presentation to the county treasurer and payment to the county treasurer of the amount due, either in cash or matured or unmatured bonds of the district, the treasurer shall, on the certificate, mark the amount as paid. Upon presentation by the owner of the certificate so receipted to the county clerk, the clerk shall insert in a column of the bond lien docket provided for that purpose, a notation showing the payment and satisfaction of the assessment in full with interest. Upon such payment of the assessment on any tract or parcel of land, the tract or parcel shall thereafter forever be relieved from assessment for the payment of irrigation bonds issued prior to the date of the payment, except for an assessment that may be levied by the board of directors of the irrigation district for an emergency fund, not exceeding the amount specified in ORS 545.599. [Formerly 545.264]

**545.596** [Amended by 1995 c.42 §18; renumbered 545.085 in 1995]

**545.598** [Amended by 1995 c.42 §19; renumbered 545.089 in 1995]

**545.599 Five-year additional assessment; emergency assessments; emergency fund.**

(1) In addition to the assessments provided for in ORS 545.565 to 545.589, the board of directors, during the first five years after the determination of assessments, shall levy against each legal subdivision or other tract if held in separate ownership within the district, as set forth in the bond lien docket, an annual assessment in an amount equal to 25 percent of the regular yearly installment of the assessment for principal and interest.

(2) Following the five-year period described in subsection (1) of this section, if there is any default in the payment of any assessment levied by the district, the board shall levy against each legal subdivision or other described tract of land held in separate ownership within the district, an assessment in an amount not to exceed 25 percent of the regular yearly installment of the assessment for principal and interest for that year, as shown in the bond lien docket. The latter assessment shall be known as the "Emergency Assessment," and shall be levied and collected at the time provided in ORS 545.381 to 545.397 and 545.413 to 545.422. All moneys received from the emergency assessment shall be placed by the county treasurer in a special fund to be known as the "Emergency Fund."

(3) The emergency fund shall be a revolving fund and shall be used only for temporarily supplementing the bond fund in case of deficiencies due to accident, delinquency or other contingency. The emergency fund shall be disbursed by the treasurer upon order of the board of directors.

(4) The emergency assessment shall be levied against each legal subdivision or other described tract of land held in separate ownership within the district as shown on the bond lien docket, even though the subdivision or tract is relieved from assessment for the payment of irrigation bonds in accordance with ORS 545.595. The amount of the emergency assessment for any year levied against a legal subdivision or other tract of land shall not exceed 25 percent of the amount of the assessment for that year levied against that legal subdivision or other tract of land for bond interest and principal, or which would have been levied against that legal subdivision or tract of land for those purposes if the land were not relieved from assessments under ORS 545.595. The aggregate net amount of assessments levied against a legal subdivision or other tract exceed the benefit surplus of the legal subdivision or other tract as shown by the bond lien docket. The net amount of every assessment shall be determined by discounting the

amount levied at the rate of six percent per annum for the time that has elapsed between the date of the final resolution determining total benefits and the date of the levy of the assessment.

(5) The net amount of all assessments levied against a legal subdivision or other tract under this section shall be duly entered in an appropriate column in the bond lien docket, and each net amount when paid shall be deducted from the amount of the benefit surplus or balance thereof of the legal subdivision or other tract affected. [Formerly 545.266; 1997 c.170 §52]

**545.600** [Amended by 1959 c.276 §6; repealed by 1975 c.326 §5]

**545.602** [Amended by 1993 c.392 §2; 1995 c.42 §20; renumbered 545.097 in 1995]

**545.603 Entry on assessment roll; lien on land; collection; disposal of moneys collected; liability of land sold for taxes; exception.** Not later than December 1 of each year, the county clerk shall furnish to the county assessor a copy of all assessments shown on the bond lien docket that were levied against property within the irrigation district in the county of the county clerk and that shall become due and payable during the coming calendar year. The assessor shall enter the assessments on the assessment roll in the same manner as other assessments of the district are entered. The assessments so entered shall continue as a lien against the tracts and parcels of land described in the assessment roll and shall be collected in the same manner and at the same time that other taxes are collected. If unpaid, the procedure for the collection of the assessments shall be the same as that provided by law for the collection of irrigation taxes and assessments. Except as otherwise provided by law, all moneys paid to the county treasurer on any assessments levied under ORS 545.565 to 545.621, and all moneys collected by the tax collector in any county on such assessments, shall be paid to the county treasurer and kept by the county treasurer in a special bond fund for the payment of the principal and interest on bonds as the bonds become due. The purchaser of any tracts or parcels of land at a sale for any delinquent state, county or municipal taxes, or irrigation assessments, shall take the tracts or parcels free and clear of any assessment that has been entered upon the assessment roll under this section and that has been included in the amount for which the tract was sold. However, the lien of the portion of the assessment created by ORS 545.589 that has not been so entered and included shall not in any manner be affected by the sale, and every purchaser shall take the lands subject to that lien. [Formerly 545.268]

**545.604** [Amended by 1993 c.392 §3; 1995 c.42 §21; 1995 c.78 §3; renumbered 545.099 in 1995]

**545.606** [Repealed by 1993 c.392 §6]

**545.607 Retirement of bonds before maturity.** (1) Notwithstanding ORS 545.565 to 545.621, the board of directors of an irrigation district may call for payment and retire before maturity any bonds issued in accordance with ORS 545.565 to 545.621. If sufficient funds are available for the purpose in the special bond fund, the board may direct the treasurer to pay that amount of bonds not due as the money in the fund will redeem at the lowest value at which they may be offered for liquidation, or the board may call bonds for par. The par value of all amortization bonds shall be considered to be the present worth of the unpaid installments on the bonds, discounted to the date they are called at the rate of seven percent per annum. Payment may be made at the office of the county treasurer of the principal county, as defined in ORS 198.705.

(2) Notice of intention to call in any bonds shall be given by the board of directors by publication in a newspaper published and regularly circulated in the county in which the district lands are situated, at least once each week for four successive weeks beginning not less than 90 days prior to any interest payment period. The notice shall state the number and amount of bonds to be retired, the price to be paid, the date when payment is to be made and the place where the bonds are to be paid.

(3) The bonds so called shall be retired in numerical order and not otherwise. A bond shall not be retired under this section except on a day when interest is payable under the terms of the bond and on and after the date given in the published notice. The interest on bonds described in the notice shall cease after the date named in the published notice, and the notice is published as provided by subsection (2) of this section. [Formerly 545.270]

**545.608** [Repealed by 1993 c.392 §6]

**545.610** [Amended by 1975 c.72 §1; 1991 c.459 §423q; repealed by 1993 c.392 §6]

**545.611** [1975 c.293 §2; 1993 c.392 §4; 1995 c.42 §22; renumbered 545.101 in 1995]

**545.612** [Amended by 1995 c.42 §23; renumbered 545.105 in 1995]

**545.613** [1965 c.576 §2; 1975 c.72 §2; 1985 c.581 §1; repealed by 1991 c.459 §423s]

**545.614** [Amended by 1995 c.42 §24; renumbered 545.109 in 1995]

**545.615** [1965 c.576 §3; 1991 c.459 §423r; 1995 c.42 §25; renumbered 545.113 in 1995]

**545.616** [Amended by 1993 c.392 §5; 1995 c.42 §26; renumbered 545.117 in 1995]

**545.617 Sale of land for delinquent assessments; district as purchaser; payment of proceeds into emergency fund; purchase price paid by district.** The district shall appear as a bidder at the sale of any lands for delinquent assessments made under ORS 545.565 to 545.621, and may purchase and take title to the lands and dispose of them like any other purchaser. On any sale by the district, the proceeds from the sale, after the payment of expenses of the sale, shall be paid into the emergency fund. When at a tax sale there is no other bidder for the full amount of the delinquency, including interest and penalties, the district shall bid and buy in the land to protect its assessments. However, the district shall never bid or pay a greater sum than the total of all assessments levied under ORS 545.565 to 545.621 with interest and penalties, and delinquent general taxes. [Formerly 545.272]

**545.618** [Amended by 1995 c.42 §27; renumbered 545.123 in 1995]

**545.620** [Amended by 1975 c.72 §3; 1995 c.42 §28; renumbered 545.126 in 1995]

**545.621 Exchange of refunding bonds for outstanding indebtedness; exchange of interest certificates for bonds.** When proceeding under ORS 545.565 to 545.621, the board of directors of any irrigation district that desires to issue refunding bonds in a satisfaction or discharge of any outstanding indebtedness or to replace outstanding indebtedness, may, instead of retiring the outstanding indebtedness from the proceeds of the sale of the bonds, exchange the refunding bonds for the outstanding indebtedness and in full compromise, satisfaction and discharge of the outstanding indebtedness. The board of directors shall issue the bonds in such denominations and to the several holders of the outstanding indebtedness as may be found necessary and expedient in the retirement of the outstanding indebtedness. The State Treasurer, on behalf of the state, may negotiate and arrange terms for exchange of interest certificates of indebtedness issued to the state by the district for district refunding bonds on the same terms as those bonds are accepted by other creditors. [Formerly 545.274]

**545.622** [Amended by 1995 c.42 §29; renumbered 545.131 in 1995]

**545.624** [Amended by 1985 c.581 §2; 1995 c.42 §39; renumbered 545.167 in 1995]

**545.625** [Formerly 545.276; repealed by 1999 c.452 §30]

**545.626** [Amended by 1995 c.42 §40; renumbered 545.169 in 1995]

**545.628** [Amended by 1995 c.42 §41; renumbered 545.171 in 1995]



**545.629 Declaration of intent to dispose of bonds; resolution; notice of sale; publication.** Before selling or otherwise disposing of any bonds as provided for in ORS 545.565 to 545.621, the board of directors by resolution shall declare at a meeting its intention of selling or otherwise disposing of the bonds. The board of directors shall cause the resolution to be entered on the minutes of the meeting. The board shall also cause notice of the sale or other disposition to be given by publication at least once a week for four consecutive weeks in three newspapers published in Oregon. One of the three newspapers shall be a newspaper published in the county in which the office of the board of directors is situated. [Formerly 545.278]

**545.631 Consent of creditors to refunding of indebtedness.** (1) Before authorizing the issuance of bonds under ORS 545.565 to 545.621, the board of directors shall require that the known holders or their representatives of not less than 80 percent of the total amount of all evidences of indebtedness, whether warrants, bonds or certificates that are to be retired or refunded, shall submit to the board of directors for its acceptance an offer:

(a) To deliver and surrender all evidences of indebtedness in exchange for bonds or cash, or both, not exceeding the maximum amount of the total assessment; or

(b) To accept in full payment of the outstanding indebtedness a sum of money or refunding bonds, or both, representing the proportion which the total proposed refunding payment bears to the total outstanding indebtedness proposed to be refunded, based on the par value of the proposed refunding payment. The creditors must agree to absorb the loss between the amount of the total outstanding indebtedness and the amount of the refunding payment, and to receive the refunding bonds or cash, or both, in full payment, satisfaction and discharge of the outstanding. The creditors must further agree to make such proper pro rata distribution of the refunding payment as is required to retire and discharge the total outstanding indebtedness proposed to be refunded.

(2) The offer shall be in writing and when submitted to the board of directors and accepted by the board, the offer shall be irrevocable until after the board of directors has had the opportunity to authorize the issuance, sale and delivery of refunding bonds to replace and discharge the outstanding indebtedness. Any litigation that is intended to or will restrain or prevent the board of directors from issuing and delivering the refunding bonds shall not subject the offer to revocation until after the litigation is concluded and the board of directors has a rea-

sonable time thereafter in which to issue, sell and deliver the refunding bonds. The offer shall be considered accepted by the board of directors upon delivery of the offer to the board. [Formerly 545.280]

**545.633 Obtaining constructive consent of unknown or dissenting creditors; petition.** For the purpose of obtaining the constructive consent of the unknown holders of the evidences of indebtedness, and of holders who have not given their consent in writing, the board of directors shall file in the circuit court of the county in which the office of the irrigation district is located a petition in rem, verified by the oath of the president or secretary of the district. The petition shall set forth the plan adopted by the district for retiring or refunding the evidences of indebtedness. The petition shall also recite what percentage of the amount of the evidences of indebtedness is held by the holders of the evidences of indebtedness who have filed their written consent to the proposed plan. The percentage shall be not less than 80 percent of the amount of the evidences of indebtedness. The petition shall further set forth what steps have been taken to attain the consent of all nonconsenting holders. [Formerly 545.282]

**545.635 Notice of court proceeding to obtain constructive consent; effect of failure to file objection.** (1) Upon presentation of the petition to the judge of the circuit court, the judge shall authorize the district to publish, and the district shall cause to be published a notice describing the substance of the terms of settlement under which the evidences of indebtedness of the district are to be surrendered, refunded, satisfied, compromised, exchanged or discharged under the provisions of ORS 545.565 to 545.621. The notice shall be printed for at least four consecutive weeks in three newspapers published in Oregon that are designated by the court. One of the newspapers must be published in the county in which the office of the board of directors is located if such a newspaper exists.

(2) The notice shall contain a general description of the evidences of indebtedness to be refunded and retired, the amount of indebtedness to be refunded and retired, and a general description of the refunding bonds to be issued. The notice shall require all holders of the evidences of indebtedness to file in the proceeding their written dissent from, or objection to, the proposed plan of settlement. The notice shall also state that if such dissent in writing is not filed in the court within 90 days from the date of the first publication of the notice, the holders failing to file dissent or objection shall be considered to have consented to the refund-

ing, compromise or settlement of the indebtedness under the terms and conditions set forth in the notice.

(3) After 90 days from the date of the first publication of the notice, the holders failing to file their objections and protests with the court shall be considered to have consented to the refunding, compromise or settlement of the indebtedness under the terms set forth in the notice. The failure to file shall be considered the equivalent of the offer in writing signed by known consenting holders. [Formerly 545.284]

**545.637 Hearing on petition; judgment; trustee.** (1) After the expiration of 90 days from the date of the first publication of the notice, the district shall file in the proceeding in the circuit court its verified return of its acts made under the order of the court, attaching affidavits of the publication of the notice in three newspapers. Thereupon the court shall promptly hear the cause and shall enter a judgment providing that all the owners and holders of the evidences of indebtedness to be retired or refunded by the plan of the district, who have not within 90 days after the date of the first publication of the notice filed in the court their written dissent and objections to the proceedings, have consented to having their evidences of indebtedness retired or refunded under the proposed plan.

(2) In the judgment the court shall direct the officers of the district to deposit with the county treasurer of the county in which the district is headquartered, as trustee for the persons entitled thereto, the pro rata part of the cash or refunding bonds, or both, which, under the settlement, belongs to the holders of the evidences of indebtedness whose consent was obtained by the court proceedings. The judgment shall provide that upon payment to the county treasurer as trustee, the evidences of indebtedness shall be considered paid and shall no longer be an obligation of the district. The judgment shall further provide that upon the surrender to the county treasurer of the bonds, together with the unpaid interest coupons belonging to the bonds, the county treasurer shall pay on demand to the holders their pro rata part of the moneys or bonds deposited with the county treasurer as trustee, shall mark the bonds canceled and shall deliver them to the irrigation district.

(3) All holders of evidences of indebtedness to be retired or refunded shall be considered to have notice of all steps and proceedings taken under this section. [Formerly 545.629, 545.631, 545.633 and 545.635. [Formerly 545.286; 2003 c.576 §501]

**545.639 Nature of proceeding; appeal; nonprejudicial errors; costs.** The procedure in the circuit court under ORS 545.629 to 545.637 shall be in the nature of an equitable proceeding in rem. Any holder of evidences of indebtedness affected by any court procedure under ORS 545.629, 545.631, 545.633, 545.635 and 545.637, or any other interested party, may appeal to the Court of Appeals at any time within 30 days after the entry of the judgment of the circuit court. The appeal must be heard and determined within three months from the time of taking the appeal. The court, in inquiring into the regularity, legality or correctness of the proceedings, shall disregard any error, irregularity or omission that does not affect the substantial rights of the parties and may approve the proceedings in part and disapprove the remainder. The costs of the proceedings may be allowed and apportioned between the parties in the discretion of the court. [Formerly 545.288; 2003 c.576 §502]

#### ALTERNATIVE METHOD OF LIQUIDATING INDEBTEDNESS

**545.643 Contract providing plan of liquidation; resolution; investigation by and approval of Water Resources Commission.** An irrigation district desiring to become a party to any contract providing a plan for the liquidation in any manner of all or part of its outstanding bonded or other indebtedness, whether then due or not due, may adopt the procedure provided by ORS 545.643 to 545.667. The procedure provided by ORS 545.643 to 545.667 is in lieu of other procedures provided by law. Before becoming a party to a contract under ORS 545.643 to 545.667, the board of directors shall adopt a resolution substantially describing all the terms and conditions of the proposed contract and requesting the Water Resources Commission to make an investigation of all matters relating to the district, with particular reference to the ability of the district or the landowners in the district to perform the obligations of the proposed contract. Upon receipt of a copy of the resolution, the Water Resources Commission shall conduct the investigation, which shall include all physical, economic and financial matters relating to the district and the irrigable acreage of each legal subdivision or other described tract of land if held in separate ownership. If, after the investigation, the Water Resources Commission determines that the contract may prudently be executed by the district, the Water Resources Commission shall advise the district of its determination by adopting a resolution of the commission to that effect. [Formerly 545.312]

**545.645 Terms of contract; parties; execution.** (1) Notwithstanding any other statute expressly or impliedly limiting the powers of the parties named in this section to enter into a contract, a contract under ORS 545.643 to 545.667 may provide a plan for liquidation of any indebtedness by the district to which the parties may agree. The contract may provide for terms of discount of the principal or interest, times and manner of payment and apportionment of the obligations of the contract over the irrigable or other lands within the district and the water rights appurtenant to those lands. All parties named in subsection (2) of this section may become party to, sign, seal, execute and deliver any contract so agreed upon, according to ORS 545.643 to 545.667.

(2) The parties to the contract shall include:

(a) The county courts of the counties in which the lands are located.

(b) The owners or holders of at least 80 percent of the amount of the then outstanding bonds or other evidences of indebtedness of the district, liquidation of which is the purpose of the contract. However, the owners or holders jointly may become party to the contract through the agency of a protective committee selected for that purpose by the owners or holders. The authority of the protective committee in the premises shall sufficiently be evidenced by the deposit, at the request of the protective committee, of at least 80 percent of the amount of the bonds or other evidences of indebtedness with the county treasurer of the county in which the office of the district is located. The bonds or other evidences of indebtedness shall be deposited pursuant to a deposit and agency agreement between the owners or holders and the protective committee.

(c) All persons who own any lands in the district or whose deeds would be required under law in order to convey such title as then is outstanding in private ownership to any lands included in the district or whose transfer of any government or state lands would be required or permitted under law in order to convey such interests then outstanding in private ownership in the lands. However, the lands described in and covered by the contract may be all or part of the lands within the district upon which all of the parties to the contract agree.

(3) The contract shall be executed by all parties with such formalities as will entitle it to be recorded. [Formerly 545.314]

**545.647 Recording of contract; effective date; preeminence of contract with respect to rights and liabilities.** Upon the execution and delivery of the contract, the

board of directors shall cause it to be recorded in the records of mortgages in the counties in which any part of the lands covered by the contract are located. Upon recordation, the contract shall become effective in accordance with its terms as of the effective date agreed upon in the contract. As of the effective date, the rights, privileges, liabilities and obligations of all parties to the contract, as described in the contract, shall govern and control all parties in lieu of all statutory rights, privileges, liabilities and obligations theretofore governing and controlling the parties in the premises. [Formerly 545.316]

**545.649 New contract in lieu of previous contract.** After the execution, delivery and recording of a contract as described and authorized in ORS 545.645 and 545.647, the irrigation district and all other parties to the contract, their successors, heirs, executors, administrators and assigns, may become parties to a new contract in lieu of the contract then in effect. A new contract shall be adopted under ORS 545.643 to 545.667 in the same manner as the contract then in effect. [Formerly 545.318]

**545.651 Constructive consent of holders of outstanding indebtedness; procedure for obtaining consent; petition.** (1) For the purpose of obtaining constructive consent of the unknown owners or holders of the bonds or other evidences of indebtedness, who have not either personally or through a protective committee become party to the contract executed in accordance with ORS 545.643 to 545.667, the board of directors shall file a petition in rem verified by the oath of the president or secretary of the district. The petition shall substantially describe the terms and conditions of the contract executed by the district for the liquidation of the bonds or other evidences of indebtedness. The petition shall be filed in the circuit court for the county in which the office of the district is located.

(2) The petition shall further state what percentage of owners or holders of bonds or other evidences of indebtedness have become parties to the contract. The percentage shall be not less than 80 percent of those owners or holders. The petition shall further set forth what steps have been taken to get the consent of all nonconsenting owners or holders of the bonds or other evidences of indebtedness. [Formerly 545.320]

**545.652** [Repealed by 1973 c.415 §14]

**545.654** [Repealed by 1973 c.415 §14]

**545.655 Notice of petition and terms of contract; failure to file dissent; effect.** (1) Upon presentation of the petition to the court, the court shall authorize the district to publish a notice describing in substance

the terms and conditions of the contract. The district shall cause the notice to be published, for at least four consecutive weeks in three newspapers published within Oregon and designated by the court. One of the newspapers must be published in the county in which the office of the board is located, if such a newspaper exists.

(2) The notice shall contain a general description of the evidences of indebtedness to be liquidated and the amount of indebtedness. The notice shall require all holders of the evidences of indebtedness to file in the proceeding their written dissent from or objection to the contract. The notice shall also state that if such dissent is not filed in writing in the court within 90 days from the date of the first publication of the notice, the owners or holders of the evidences of indebtedness failing to file their dissent or objections shall be considered to have consented to all the terms and conditions of the liquidation of the indebtedness as provided in the contract. Failure within the 90-day period to file dissent and objections with the court shall be the equivalent of the signing, execution and delivery of the contract either personally or through the agency of the protective committee by the known consenting owners or holders of the evidences of indebtedness. [Formerly 545.322]

**545.656** [Repealed by 1973 c.415 §14]

**545.658** [Repealed by 1973 c.415 §14]

**545.659 Hearing on petition; judgment; trustee.** (1) After 90 days from the date of the first publication of the notice, the district shall file in the proceeding in the circuit court its verified return of its acts made under the order of the court. The district shall attach affidavits of the publication of the notice in three newspapers. After the district files its verified return, the court shall hear the cause and shall enter a judgment providing that all the owners or holders of the evidences of indebtedness who have not, within 90 days after the date of the first publication of the notice, filed in the court their written dissent and objections to the proceedings and contract, have consented to their evidences of indebtedness being liquidated in accordance with the terms of the contract.

(2) In the judgment, the court shall direct that the pro rata part of the cash received that, under the contract, belongs to the owners or holders of the evidences of indebtedness whose consent was obtained by the court proceedings be deposited with the county treasurer of the county in which the office of the district is located. The county treasurer shall be trustee for the persons entitled to the moneys. The court shall direct

the deposit to be made by the officers of the district, the landowners within the district or the protective committee acting for the consenting owners or holders, as the court may consider most expedient and practicable under the terms of the contract.

(3) The judgment shall also provide that, upon the payment of the money to the county treasurer as trustee, the evidences of indebtedness held by the owners or holders shall be considered paid and no longer shall be an obligation as provided in the contract. The judgment shall further provide that, upon surrender to the county treasurer of the bonds with the unpaid interest coupons or other evidences of indebtedness, the county treasurer shall pay on demand to the owners or holders their pro rata part of the moneys deposited with the county treasurer as trustee. When paid in accordance with the contract, the county treasurer shall mark the evidences of indebtedness canceled and deliver the evidences of indebtedness to the district.

(4) All owners or holders of the evidences of indebtedness to be liquidated shall be considered to have notice of all steps taken and proceedings under ORS 545.643 to 545.667. [Formerly 545.324; 2003 c.576 §503]

**545.660** [Repealed by 1973 c.415 §14]

**545.662** [Repealed by 1973 c.415 §14]

**545.663 Nature of proceeding; appeal; nonprejudicial errors; costs.** The procedure in the circuit court under ORS 545.651, 545.655 and 545.659 shall be in the nature of an equitable proceeding in rem. Any owner or holder of evidences of indebtedness affected by the court proceeding or any other interested party may appeal to the Court of Appeals at any time within 30 days after issuance of the judgment of the circuit court. The appeal must be heard and determined within three months from the time of taking the appeal. The court, in inquiring into the regularity, legality or correctness of the proceedings, shall disregard any error, irregularity or omission that does not affect the substantial rights of the parties. The Court of Appeals may approve the proceedings in part and disapprove the remainder. The costs of the proceedings may be allowed and apportioned between the parties in the discretion of the court. [Formerly 545.326; 2003 c.576 §504]

**545.664** [Repealed by 1973 c.415 §14]

**545.666** [Repealed by 1973 c.415 §14]

**545.667 State Treasurer as depository.** The State Treasurer may act as depository for any purposes under ORS 545.643 to 545.667. All warrants, bonds or other evidences of indebtedness may be deposited with the State Treasurer for safekeeping. [Formerly 545.332]

### ADDITIONAL METHOD OF LIQUIDATING INDEBTEDNESS

**545.671 Contract providing plan of liquidation; resolution of directors.** Any irrigation district desiring to become a party to any contract providing a plan for the liquidation in any manner of all or part of its outstanding bonded or other indebtedness, whether then due or not due, may choose to adopt the procedure provided by ORS 545.671 to 545.679. The procedure provided by ORS 545.671 to 545.679 is in lieu of other procedures provided by law. Before becoming a party to a contract under ORS 545.671 to 545.679, the board of directors shall adopt a resolution substantially describing all the terms and conditions of the proposed contract. [Formerly 545.352]

**545.673 Terms of contract.** Notwithstanding any other statute expressly or impliedly limiting the powers of the parties named in this section to enter into a contract, a contract under ORS 545.671 to 545.679 may provide a plan for liquidation of any indebtedness of the district to which all the parties may agree. The contract may provide for terms of discount of the principal and interest, times and manner of payment and apportionment of the obligations of the contract over the irrigable or other lands. The contract may also provide for the manner and method of making assessments for payment of the principal and interest agreed to be paid, and for the issuance of certificates or other evidences of participation in the contract by the owners or holders of evidences of indebtedness of the district. The contract may contain a provision permitting the release of any land in the district from any lien created by the contract to secure the payment of the obligations of the contract as to that land or relieving any land in the district from any obligation to pay any assessment thereafter levied for the purpose of meeting the obligations or interest accruing under the contract. The contract may provide that the release or relief of land from liens or obligations under the contract may be done by payment to the district of an amount of money as provided in the contract, or by delivery of bonds or coupons or other evidence of participation in the contract. [Formerly 545.354]

#### **545.675 Parties to contract; execution.**

(1) All parties described in this section are authorized to become party to, sign, seal, execute and deliver a contract agreed upon under ORS 545.671 to 545.679. The parties shall include:

- (a) The irrigation district; and
- (b) The owners or holders of at least 66-2/3 percent in amount of the then out-

standing bonds or other evidences of indebtedness of the district, the liquidation of which is the purpose of the contract. The owners or holders jointly may become party to the contract through the agency of a protective or bondholders' committee selected for that purpose by the owners or holders of outstanding bonds or other evidences of indebtedness.

(2) The contract shall be executed by all parties with such formalities as will entitle it to be recorded. [Formerly 545.356]

**545.677 Election authorizing directors to enter into contract.** The contract provided for in ORS 545.671 to 545.679 may be entered into by the district by its board of directors when a majority vote of the electors of the district authorizes the contract. [Formerly 545.358]

**545.679 Recording of contract; effective date; preeminence of contract with respect to rights and liabilities.** Upon execution and delivery of a contract under ORS 545.671 to 545.679, the board of directors shall cause the contract to be recorded in the records of mortgages in the counties in which the lands covered by the contract are located. After recordation of the contract, the contract shall become effective in accordance with its terms. As of the effective date agreed upon in the contract, the rights, privileges, liabilities and obligations of all parties to the contract, as described in the contract, shall govern and control all the parties in lieu of all statutory rights, privileges, liabilities and obligations previously governing and controlling the parties in the premises. [Formerly 545.360]

### CLAIMS AGAINST DISTRICTS

**545.683 Submission of claims to board; drawing of warrants; payment; lack of funds; interest on warrants; debts payable by warrants; receipt of warrants, bonds and interest coupons in payment of charges; amount of outstanding warrants; monthly report of district finances.** (1) Claims against the district shall be submitted to the board upon vouchers. Upon order of the board the president and secretary shall draw warrants in payment of the claims. The county treasurer shall pay the warrants, if there are funds available for that purpose. If funds are not available, the treasurer shall so indorse the warrants. From the date of the indorsement the warrants shall bear interest at a rate not exceeding six percent per annum until paid or until notice has been given that funds are available for payment of the warrants. Except for payments that may be made by irrigation district bonds, the warrants shall be drawn in payment of any debt, liability or

obligation incurred in carrying out the Irrigation District Law.

(2) The warrants shall be receivable by the tax collector when tendered in payment of maintenance charges levied against lands in the district that issued the warrants. The tax collector shall also receive any past due bond or any past due interest coupon from any bond of the district in payment of any assessment made for the purpose of paying the bonds or bond interest of the district. The total amount of outstanding warrants for the payment of which there are no funds available shall not exceed \$5 per acre for each acre in the district.

(3) On the first Tuesday in each month, the county treasurer shall report to the board, in writing, the amount of money in the several funds of the district, the amount of receipts for the month preceding, and the amount of items of expenditures. The report shall be verified and filed with the secretary of the board. [Formerly 545.562]

**545.685 Establishing bank account for payment of labor and emergency expenses.** (1) The board of directors of an irrigation district may withdraw from any moneys deposited on behalf of the district an amount designated by the board and deposit it in an account with any insured institution, as defined in ORS 706.008, that is approved

by the board to be maintained in the name of the district for the purposes set forth in subsection (2) of this section.

(2) The account established under this section shall be used for the payment of any claims arising out of labor and emergency expenses incurred by the district during any month. Moneys may be withdrawn from the account by:

(a) Check or draft signed by at least two individuals authorized to do so by the board of directors; or

(b) Electronic funds transfers authorized by the board and initiated by at least two individuals authorized by the board.

(3) The expenditures made shall be ratified and audited by the board at each regular meeting.

(4) As used in this section, "electronic funds transfer" has the meaning given that term in ORS 293.525. [Formerly 545.563; 1997 c.631 §488; 2005 c.492 §2]

**545.990** [Repealed by 1969 c.344 §8]

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## CHAPTER 546

[Reserved for expansion]

# Chapter 547

2017 EDITION

## Drainage Districts

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## ORGANIZATION OF DRAINAGE DISTRICTS; SCOPE OF LAW

**547.005 Authority to form drainage district.** The persons shown by the records of the county to be the owners of 50 percent of the acreage in any contiguous body of swamp, wet or overflowed lands or irrigated lands, waters from which contribute to the swamp, wet or overflowed conditions of those or other lands, situated in one or more counties of the state, may form a drainage district for the purpose of having such lands reclaimed and protected by drainage or otherwise from the effects of water, for sanitary or agricultural purposes, or when the same may be conducive to the public health, convenience and welfare or of public utility or benefit.

**547.010 Petition to form district; contents.** For the purpose mentioned in ORS 547.005, the owners may prepare and sign a petition in which shall be stated:

- (1) The name proposed for the district.
- (2) The boundary lines of the district, or a description of all the lands included therein, with an allegation that such lands constitute a contiguous body of swamp, wet or overflowed lands, or irrigated lands the waters from which contribute to the swamp, wet or overflowed condition of those or other lands.
- (3) The total acreage included in the district, and if land in more than one county is included, then the acreage in each county.
- (4) The names of the owners of land in the district as shown by the county records, and the acreage owned by each owner.
- (5) An allegation that the proposed reclamation or protection is for sanitary or agricultural purposes, or both, and that the proposed reclamation or protection will be conducive to the public health or welfare or of public utility or benefit.
- (6) An allegation that all the lands included in the proposed district are properly included, and will be beneficially affected by the operations of the proposed district.
- (7) An allegation that the benefits of the proposed reclamation or protection will exceed the damage to be done and that the best interests of the land included and of the owners of such land as a whole, and of the public at large, will be promoted by the formation and proposed operations of the district.
- (8) An allegation that the formation of a drainage district under the provisions of this chapter is a proper and advantageous method of accomplishing the reclamation and protection of the lands included therein.

(9) A brief, general, informal statement of a proposed plan of reclamation or protection and such general facts as will enable the court to determine that there is a reasonable probability that the objects sought by the formation of the district may be accomplished.

(10) An agreement that the signers will pay any expenses incurred and any charges imposed and billed to the signers, for the purpose of paying the expense of organizing or attempting to organize the proposed district.

(11) A prayer asking that the lands described, or such of them as may be found by the court to be properly included in the proposed district, either permanently or until further investigation and surveys may permit elimination, shall be declared organized into a drainage district. [Amended by 1991 c.459 §425]

**547.015 Verification and filing of petition.** The petition shall be verified by one or more of the petitioners to the effect that they have read the petition and believe the allegations to be true. It shall be filed in the office of the county clerk of the county in which the lands described are situated. If the lands are situated in more than one county it shall be filed in the office of the county clerk of the county in which more of the lands are situated than in any other county.

**547.020 Fixing time and place of hearing; notice; jurisdiction over district.** (1) Upon presentation of the petition, the county court shall fix the time and place for hearing the petition. Thereupon the clerk in whose office the petition was filed shall give notice in the following manner:

(a) The clerk shall cause notice to be published once each week for four consecutive weeks in some newspaper published in each county in which are situated lands of the district, the last insertion to be made at least 15 days prior to the meeting of the county court at which the petition is to be heard. The notice shall be substantially in the following form and shall be deemed sufficient for all purposes of the Drainage District Act:

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### Notice of Hearing on Petition to Form Drainage District.

In the County Court of the State of Oregon, for the County of \_\_\_\_\_.

Notice is given that hearing on the following petition will be held at the courthouse in the city of \_\_\_\_\_, County of \_\_\_\_\_, State of Oregon, on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, for the purpose of determining whether the prayer of the petition shall be granted.

All persons owning or claiming an interest in lands described in the petition are notified to appear at that place on that date and show cause, if any there be, why the prayer in the petition should not be granted.

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Clerk of the County Court

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(b) Immediately following the notice and as a part thereof, there shall be published the petition in full, including the signatures thereto.

(2) The county court of the county in which the petition has been filed shall thereafter maintain and have original and exclusive jurisdiction coextensive with the boundaries and limits of the district without regard to county lines, for all purposes of the Drainage District Act.

**547.025 Filing of objections.** On or before the date set for the hearing, any person objecting to the organization and incorporation of the district may appear and file a writing setting forth specifically and definitely any objections thereto.

**547.030 Evidence at hearing; findings; appeal.** (1) At the hearing the court shall hear and consider any evidence that may be presented for or against the petition or any objection thereto.

(2) Thereupon the court shall make its findings upon the facts alleged in the petition or objections and any other facts necessary and proper for the determination of the propriety of the organization of the district, which findings shall be entered on the journal of the court.

(3) If it appears to the court that the prayer of the petition should be granted, the court shall, by its order entered of record, declare the drainage district organized.

(4) If it appears to the court that the prayer of the petition should not be granted, the proceedings shall be dismissed and the costs adjudged against the signers of the petition in proportion to the acreage represented by each.

(5) In making such findings and decision, the court shall disregard any error, irregularity or omission which does not affect substantial rights, and no such error, irregularity or omission shall affect the validity of the organization or any proceedings taken thereon.

(6) Appeal may be taken de novo from the decision of the court to the circuit court. [Amended by 1979 c.284 §168]

**547.035** [Repealed by 1975 c.326 §5]

**547.040 Application of Act of 1915 and amendments to districts organized under earlier laws.** All drainage districts organized before February 14, 1921, in pursuance of any law relating to drainage districts passed prior to the enactment of chapter 340, Oregon Laws 1915, shall have all the powers and be subject to all the provisions of the Drainage District Act, except in so far as the organization of the district is concerned.

**547.045 Public lands within district; authority to sign petition or objections; liability of lands; assessments.** (1) When-

ever any diking or drainage district is sought to be created and organized or is created and organized in the manner provided by law, within the boundaries of which are located any lands belonging to the state that have been acquired or used by or for any state institution described in ORS 179.321 or used for the Eastern Oregon State Training Center, the Director of Human Services, the Department of Corrections or the Director of the Oregon Health Authority may sign any petition or objections thereto for the organization of such district and exercise on behalf of the state with respect to the district and the land therein belonging to the state, all the rights and privileges of a landowner within the district.

(2) Whenever any such district or proposed district includes any lands belonging to any public body as defined in ORS 174.109, the presiding officer of such public body, a member of the governing body of such public body or a designee of the governing body, when designated in a resolution of the governing body, may sign such petition or objection on behalf of the public body, and exercise with respect to the district and the land therein belonging to the public body all the rights and privileges of a landowner in the district, including the right to be a supervisor of the district.

(3) Lands belonging to a public body as defined in ORS 174.109 shall be subject to the same burdens and liabilities and entitled to the same benefits as lands in the district belonging to private individuals. The Department of Human Services, the Department of Corrections or the Oregon Health Authority may pay from any appropriations made for the operation and maintenance of any institution, the lands of which have been included in any diking or drainage district, any charges billed to the departments or the authority on any assessments levied against such lands by the diking or drainage district. [Amended by 1959 c.380 §1; 1969 c.597 §61; 1989 c.171 §72; 1991 c.459 §425a; 2003 c.802 §134; 2009 c.595 §988; 2013 c.36 §69; 2013 c.46 §1]

**547.050 Signing of petition by Governor.** The signing of the petition by the Governor for the organization of a diking or drainage district on behalf of the state shall be deemed to constitute compliance with the provisions of ORS 547.005 to 547.015, and any previous such action by the Governor is hereby ratified and confirmed. [Amended by 1969 c.597 §62]

**547.055 Attack on validity or boundaries of district; time for commencement of suit.** No action, suit or proceeding, under ORS 30.570 or otherwise, shall be maintained for the purpose of avoiding, setting aside or otherwise questioning or affecting the validity of the organization of any district organized under the Drainage District Act, unless such action, suit or proceeding is commenced within nine months from the date of the proclamation in such matter made by the county judge; nor for the purpose of questioning the legality of the boundaries established for such corporation in such proclamation unless similarly commenced within nine months therefrom; nor for the purpose of questioning the legality of any altered boundaries of the district which may be subsequently established as provided for by ORS 547.250 to 547.260 unless commenced within nine months from the date of the judgment. [Amended by 2003 c.576 §505]

**547.057 Drainage district activity as urban service.** (1) An activity of a drainage district is deemed to be an urban service, as defined in ORS 195.065, if the drainage district:

(a) Is located in a county that has a population greater than 700,000; and

(b) Operates a flood control project located within the urban growth boundary established by Metro or within the incorporated boundary of a city.

(2) As used in this section, “flood control project” means a system or method, including, but not limited to, canals, ditches, dikes, levees, revetments and floodwalls, for:

(a) The control, diversion, conservation or abatement of floodwater, or of an excessive or unusual accumulation of water, in a natural or artificial body of water; or

(b) The protection of life and property against danger, menace, injury or damage resulting from floodwater, or an excessive or unusual accumulation of water. [2015 c.544 §14]

**Note:** 547.057 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 547 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**547.060 Scope of Drainage District Act.** As used in this chapter, “Drainage District Act” means ORS 547.005 to 547.030,

547.057, 547.105 to 547.150, 547.205 to 547.240, 547.250 to 547.265, 547.310, 547.315, 547.455 to 547.475, and 547.555 to 547.580. [Amended by 2015 c.544 §13]

## DRAINAGE DISTRICTS MANAGING FEDERALLY AUTHORIZED FLOOD CONTROL PROJECTS

**547.063 Definitions.** As used in ORS 547.063 to 547.083:

(1) “Flood control project” means a system or method, including, but not limited to, canals, ditches, dikes, levees, revetments and floodwalls, for:

(a) The control, diversion, conservation or abatement of floodwater, or of an excessive or unusual accumulation of water, in a natural or artificial body of water; or

(b) The protection of life and property against danger, menace, injury or damage resulting from floodwater, or an excessive or unusual accumulation of water.

(2) “Obstruction” means an encroachment, improvement or trespass that substantially and adversely affects the efficient operation or maintenance of a flood control project or a ditch, lateral, drain, canal, slough, waterway or conduit.

(3) “Repair” includes replace, remove, relocate and upgrade when, in the discretion of the board of supervisors of a drainage district, replacement, removal, relocation or upgrade is necessary to comply with state or federal regulations or to protect and preserve the property of the district. [2015 c.544 §2]

**Note:** 547.063 to 547.083 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 547 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**547.065 Public hearing required.** (1) Before a drainage district elects to exercise the powers and duties set forth in ORS 547.067, the board of supervisors shall hold a public hearing.

(2) At least 14 days before the date of the public hearing, the board shall give notice of the hearing in a newspaper of general circulation in the district and mail notice of the hearing to the owners of record, based on the most recent county tax assessment roll, of property within the district.

(3) Notice of the public hearing must:

(a) State the date, time and location of the hearing;

(b) State that the board is considering whether to elect to exercise the powers and duties set forth in ORS 547.067; and

(c) Invite all interested parties to attend the hearing and present testimony.

(4) After the public hearing, the board may adopt a resolution in which the district elects to exercise the powers and duties set forth in ORS 547.067. Following adoption of the resolution, the board may exercise the powers and duties as provided in ORS 547.067. [2015 c.544 §3]

**Note:** See note under 547.063.

**547.067 Powers of drainage district.** (1)

A drainage district may acquire, construct, reconstruct, repair, improve or extend improvements to carry out the purposes of the Drainage District Act.

(2) A drainage district in a county with a population greater than 700,000 persons may adopt ordinances consistent with sanitary, agricultural, public health or public safety purposes under ORS 198.510 to 198.600 to carry out its powers and duties under the Drainage District Act, including ordinances related to:

(a) Flood protection, drainage control or management, including provisions for enforcement of the regulations;

(b) Rates, fees, fines and charges for the operation of the district and construction, maintenance, repair and improvement of the works of the district;

(c) A delegation of authority to the chief executive officer of the district to manage and administer the district; and

(d) Other matters determined by the board of supervisors to be necessary or convenient to exercise the authority granted to the district or to comply with the requirements of state and federal law.

(3) A drainage district shall provide written notice to any city in which all or a portion of the drainage district is located not more than 21 days and not less than 10 days prior to the first reading of a proposed ordinance described in subsection (2) of this section. The notice must include a brief description of the proposed ordinance and a copy of the proposed ordinance and must list the time, date and place of the public meeting at which the drainage district will consider the proposed ordinance. The date of notice shall be the date of mailing.

(4)(a) Notwithstanding subsection (2)(b) of this section, a drainage district may not impose on a city a rate, fee or charge unless the rate, fee or charge is a provision of an intergovernmental or urban services agreement between the drainage district and the city.

(b) A drainage district may levy a city an assessment, rate, fee, fine or charge as a property owner within the drainage district that is not a provision of an intergovernmental or urban services agreement, pro-

vided the drainage district levies the assessment, rate, fee, fine or charge against the city pursuant to the same terms and conditions as levied against other property owners within the drainage district.

(5) The drainage district shall consult and coordinate with all governmental units with authority to exercise similar powers and duties within the boundaries of the drainage district if the exercise of those powers and duties has the potential to conflict. In the event that an exercise of powers or duties by the drainage district conflicts with the exercise of similar powers by a governmental unit, the drainage district and governmental unit shall execute an intergovernmental or urban services agreement to resolve the conflict. [2015 c.544 §4]

**Note:** See note under 547.063.

**547.069 Formation of drainage district by owners of certain lands permitted.** In

a contiguous body of swamp, wet or overflowed land or irrigated land from which waters contribute to the swamp or to the wet or overflowed condition of the same or different land, the owners of record of at least 50 percent of the acreage may form a drainage district for the purpose of reclaiming and protecting the land by drainage, flood control or otherwise from the effects of water:

(1) For sanitary or agricultural purposes; or

(2) When reclaiming and protecting the land protects life or property from the harmful effects of water or produces another public utility or benefit. [2015 c.544 §5]

**Note:** See note under 547.063.

**547.071 Powers of drainage district of officers and employees.** (1) The officers and employees of any drainage district may:

(a) Enter upon any land in the manner provided by ORS 35.220.

(b) Locate the necessary flood control project, drainage works or irrigation works, and the necessary branches for the same, on any lands that may be deemed best for such location.

(c) Acquire, either by lease, purchase, condemnation or other legal means, all lands, rights of way, easements and other property necessary for the construction, operation or maintenance of a flood control project, drainage works or irrigation works, including the enlargement, improvement or extension of any natural or artificial waterway for such purposes.

(d) Make all necessary water filings or appropriation of water under the general laws of Oregon for irrigation of lands within such district.

(2) The property, the right to condemn which is hereby given, shall include property already devoted to public use that is less necessary than the use for which it is required by the district, whether used for drainage, irrigation or any other purpose. The right of way is hereby given, dedicated and set apart to locate, construct and maintain such drainage or irrigation works over and through any of the lands that are now or may be the property of this state.

(3) In the acquisition of property or rights by condemnation, proceedings under the provisions of this section shall be brought in the name of the district under the provisions of ORS chapter 35. [2015 c.544 §6]

**Note:** See note under 547.063.

**547.073 Powers of board of supervisors.** (1) The board of supervisors may:

(a) Build, construct and complete any works and improvements needed to carry out the plan of reclamation.

(b) In the name of the district, make all necessary water filings and appropriations of water for the subsequent irrigation of the lands within the district.

(c) Construct, operate and maintain irrigation works for the irrigation of the lands within the district.

(d) Hire personnel and purchase machinery, equipment and supplies.

(e) Construct, operate, protect and maintain flood control projects for the protection of the lands within the district.

(2) The board may, after advertising for bids, let a contract for construction of the whole or any part of the flood control project, drainage works or irrigation works to the lowest responsible bidder, which contract shall be in writing. The complete plans and specifications for the flood control, drainage or irrigation of the lands shall be attached to and made a part of each contract. Good and sufficient bond, running in favor of the district, shall be required of each contractor, conditioned that the contractor will well and truly comply with all the provisions of the contract and perform all work in accordance with the terms thereof.

(3) The chief engineer shall be superintendent of all the works and improvements and shall, whenever required, and at least once each year, make a full report to the board of all work done and improvements and make such suggestions and recommendations to the board as the chief engineer deems proper. [2015 c.544 §7]

**Note:** See note under 547.063.

**547.075 Contracts with federal government permitted.** The board of supervisors of any drainage district, whenever it is de-

termined by the board that it is for the best interests of the district:

(1) May enter into a contract with the United States for the reclamation by drainage or irrigation of the lands within the boundaries of the district, under the provisions of the Act of Congress of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, and especially the Act of Congress approved August 13, 1914, entitled, "An act extending the period of payment under reclamation projects, and for other purposes," commonly known as the "Twenty-Year Extension Act."

(2) May make contracts with a federal agency relating to flood control projects that contain terms, provisions and conditions the board of supervisors determines are necessary or appropriate to satisfy conditions on the construction of flood control projects that are imposed under federal law or that attach as a result of federal funding for the flood control project. [2015 c.544 §8]

**Note:** See note under 547.063.

**547.077 Powers of boards of supervisors west of the Cascade Mountains.** (1) The board of supervisors of a drainage district lying west of the Cascade Mountains, whether or not organized under the Drainage District Act:

(a) Shall supervise and control flood control projects within the boundaries of their districts.

(b) May prescribe the width, grade and other specifications of flood control projects, drainage works or irrigation works described in this subsection.

(2) The board may construct and maintain flood control projects within the boundaries of their districts. [2015 c.544 §9]

**Note:** See note under 547.063.

**547.079 Clogged or obstructed conditions; notice to owner or occupant.** (1) Whenever the engineer or secretary of a drainage district notifies the supervisors that any flood control project is less efficient, by reason of the failure of the owner of the premises upon which it is situated to prevent obstructions, repair, clean or grade the same, the board of supervisors shall serve or cause to be served upon such owner, if the owner is known and residing within the county in which the district is situate, or if not a resident of the county, then upon the occupant of the premises, a notice in writing notifying the owner or occupant of the clogged or obstructed condition of the flood control project.

(2) The notice shall be served by delivering to the owner, occupant or person in charge of the premises a copy thereof certi-

fied to be such by the person serving it, or if there is no occupant or the owner is not a resident of the county, then the notice shall be served by posting a copy of it in a conspicuous place upon the premises. Immediately after serving or posting the notice, the person serving it, by authority of the board of supervisors, shall file the original notice with the county clerk of the county in which service is made, together with a return on the notice stating the time and manner of making service. The notice and return, when so filed, shall be retained as a public record of the county. [2015 c.544 §10]

**Note:** See note under 547.063.

**547.081 Repair of clogged or obstructed condition.** (1) If the owner or occupant of the premises upon which the clogged or obstructed flood control project is situated fails for 10 days after being notified of the existence of the clogged or obstructed condition, to submit to the drainage district a plan and schedule to repair, clean or grade the flood control project or remove the obstruction therefrom, the board of supervisors shall immediately repair, clean or grade the same and cause it to be promptly placed in a proper and efficient condition.

(2) The drainage district shall review a plan and schedule submitted by an owner or occupant to determine whether the plan and schedule adequately address the clogged or obstructed condition in an effective and timely manner. If the drainage district approves the plan and schedule, the owner or occupant shall repair, clean or grade the flood control project or remove the obstruction therefrom pursuant to the plan and schedule. If the owner or occupant fails to do so pursuant to the plan and schedule, the board of supervisors shall immediately repair, clean or grade the same and cause it to be promptly placed in a proper and efficient condition.

(3) Nothing in this section precludes the board of supervisors from immediately repairing, cleaning or grading the clogged or obstructed flood control project in cases of emergency. [2015 c.544 §11]

**Note:** See note under 547.063.

**547.083 Owner or occupant liable for repair expense; notice and recordation of lien.** (1) Upon completion of the work the board of supervisors shall bill the owner or occupant of the premises for the expense necessarily incurred in the repair, grading or cleaning of the flood control project.

(2) If any charge remains unpaid beyond the due date thereof, the secretary of the district may file a notice of claim of lien with the county clerk of the county in which the lands for which the charges were billed

are situated. The notice of lien shall be in writing and must contain:

(a) The name of the landowner or occupier who was billed.

(b) A statement of the amount claimed past due.

(c) A description of the land upon which the work was completed sufficient for identification.

(3) The county clerk shall cause the notice of lien to be recorded in the County Clerk Lien Record maintained under ORS 205.125. The amount of the charges and expense, as of the date the notice of lien is filed, shall constitute a first lien upon the lands or premises, except as to taxes. If the charges and expenses are not paid and the lien discharged by the owner or occupant within 30 days from the date the notice is filed, suit or action may be brought in the name of the drainage district for the foreclosure of the lien. The suit or action shall be brought by the district attorney, or, at the option of the board, by an attorney employed by the board. The lands affected thereby shall be sold under execution for the payment and satisfaction of the lien and of the costs and disbursements incurred in connection with the prosecution of the suit or action. [2015 c.544 §12]

**Note:** See note under 547.063.

### **BOARD OF SUPERVISORS; ADMINISTRATION; SURETY BONDS; WARRANTS**

**547.105 Election of supervisors; qualifications and terms of office; quorum for transaction of business at owners' meetings.** (1) Within 30 days after any drainage district has been organized under the provisions of the Drainage District Act, the county clerk of the county in which the petition was filed shall call a meeting of the owners of land situated in the district for the purpose of electing a board of supervisors with three or five supervisors as determined by the owners of land within the district.

(2) The county clerk shall give notice of the meeting by publication in some newspaper published in each county in which lands of the district are situated, at least 10 days before the date of the meeting.

(3) The supervisors must be owners of land in the district.

(4)(a) The owners, assembled at the place and time required by the notice, shall organize by the election of a chairperson and secretary of the meeting who shall conduct the election. Each owner is entitled to one vote in person or by proxy for each acre of land owned by the owner in the district. If an owner is a not a natural person, the owner

may appoint a designee, in a writing filed with the secretary, to exercise the authority of the owner, including the voting and serving as a supervisor of the district. The designee shall serve as a representative of the owner until the designee resigns, or the owner replaces the designee, in a writing filed with the secretary.

(b) Notwithstanding paragraph (a) of this subsection, at or before the organizing meeting, an owner that is not a natural person may appoint a designee in a writing filed with the county clerk.

(5) The three or five persons receiving the highest number of votes must be declared elected as supervisors. The supervisors shall determine the terms of their offices by lot. If three supervisors are elected, the supervisors shall serve, respectively, one, two and three years. If five supervisors are elected, one supervisor shall serve one year, two supervisors shall serve two years, and two supervisors shall serve three years. The supervisors first elected shall serve until their successors are elected and qualified.

(6) At a meeting of owners, owners that represent at least a majority of the acreage in the district constitute a quorum for the transaction of district business. In a year in which a quorum of owners is not achieved at the annual meeting called under ORS 547.110, owners representing at least 35 percent of the acreage in the district constitute a quorum for the annual meeting in the succeeding year. [Amended by 1959 c.379 §1; 2003 c.223 §1; 2015 c.544 §18]

**547.110 Annual meeting; election of supervisors; owners entitled to vote.** In the same month of each year after the election of the first board of supervisors, the board shall call a meeting of the owners of land in the district. The board shall give notice in the manner provided for in ORS 547.105. The owners shall meet at the time and place fixed by the board and elect one or two supervisors in the manner prescribed in ORS 547.105, who shall hold office for three years and until a successor is elected and qualified. However, after the report of the commissioners has been confirmed by the court under the provisions of ORS 547.235, only the owners, or the designees of the owners, of the land having benefits attributed to the land are entitled to vote at the annual meetings held under the provisions of this section. [Amended by 1969 c.669 §14; 1991 c.459 §425b; 2003 c.223 §2; 2015 c.544 §19]

**547.112 Change in number of supervisors.** (1) At least six months prior to an annual meeting of a drainage district, the board of supervisors of the drainage district may change the number of supervisors elected to

the board, effective at the next annual meeting, by a motion approved by the affirmative vote of a majority of the supervisors.

(2) If the board of supervisors acts under subsection (1) of this section:

(a) To change the number of supervisors on the board, the board shall notify the county clerk of the county in which the petition to form the district was filed and the Secretary of State at least six months prior to the annual meeting at which one or more supervisors will be added to or removed from the board or within 30 days of taking action under subsection (1) of this section, whichever is later.

(b) To reduce the number of supervisors from five to three, the board shall phase in the change, beginning at the next annual meeting, in a manner that allows each supervisor to serve the full term to which the supervisor was elected. If the decision is made to reduce the number of supervisors from five to three at an annual meeting at which only one supervisor is scheduled to be elected, the election must be canceled and the supervisor whose term is ending shall continue in office until the following annual meeting. At the following annual meeting, the terms of two more supervisors will end, and only one supervisor will be elected. [2003 c.223 §4]

**547.115 Supervisor's oath of office.** Each supervisor before entering upon official duties shall take and subscribe to an oath before some officer authorized by law to administer oaths, that the supervisor will honestly, faithfully and impartially perform the duties devolving upon the supervisor in office as supervisor of the drainage district in which the supervisor was elected, and that the supervisor will not neglect any of the duties imposed upon the supervisor by the Drainage District Act.

**547.120 Board of supervisors; officers; secretary; seal; record of proceedings; report.** The board of supervisors immediately after its election shall choose one of its number president of the board, and elect some suitable person secretary, who may or may not be a member of the board. The board shall adopt a seal with a suitable design, and shall keep a record of all its proceedings. The board shall report to the landowners at the annual meeting held under the provisions of ORS 547.110 what work has been done, either by the engineers or otherwise. Notwithstanding the provisions of ORS 198.190, if the secretary is a member of the board the secretary shall be entitled to compensation as provided for in ORS 547.125. [Amended by 1971 c.403 §10; 1973 c.794 §28]

**547.125 Secretary as treasurer; duties; audit of books and report to landowners; compensation.** (1) The secretary of the board of supervisors in any drainage district shall hold the office of treasurer of the district, except as otherwise provided in this chapter.

(2) The treasurer shall receipt for all moneys received by the treasurer and shall keep all funds received by the treasurer from any source deposited at all times in some insured institution or trust company, as those terms are defined in ORS 706.008, that is designated by the board of supervisors. All interest accruing on such funds shall, when paid, be credited to the district.

(3) The board of supervisors shall audit or have audited the books of the treasurer each year and make report thereof to the landowners at the annual meeting and publish a statement within 30 days thereafter, showing the amount of money received, the amount paid out during the year, and the amount in the treasury at the beginning and end of the year.

(4) The treasurer shall pay out funds of the district only on warrants signed by the president of the board and attested by the signature of the secretary and treasurer.

(5) The secretary shall receive as compensation for performing the duties of secretary-treasurer such salary as may be fixed and directed to be paid by resolution of the board. [Amended by 1969 c.345 §14; 1997 c.631 §489]

**547.130 Record of meetings, proceedings, certificates, bonds, acts.** The board of supervisors of any district organized under the Drainage District Act shall cause to be kept a well-bound book, entitled "Record of Proceedings of Board of Supervisors of \_\_\_\_\_ District," in which shall be recorded minutes of all meetings, proceedings, certificates, bonds given by all employees, and any and all corporate acts, which record shall at all times be open to the inspection of anyone interested, whether taxpayer or bondholder.

**547.135 Removal of employees.** The board of supervisors may at any time remove any officer, attorney or other employee appointed or employed by the board.

**547.140 Uniform charge to pay expenses of organizing district, surveys, assessing benefits and damages; collection; surplus funds; refunding in case of dissolution.** (1) The board of supervisors of any district organized under the provisions of the Drainage District Act shall, as soon as elected and qualified, impose a uniform charge of not more than \$1 per acre upon the owner of each acre of land within the dis-

trict, to be used for the purpose of paying expenses incurred or to be incurred in organizing the district, making surveys of the same, and assessing benefits and damages, and to pay other expenses necessary to be incurred before the board shall be empowered by other provisions of the Drainage District Act, to provide funds to pay the total cost of works and improvements of the district. In case the boundary lines of the district are extended so as to include lands not described and contained in the petition, the same uniform charge shall be imposed upon the owners of the included lands as soon as the lands are annexed and included in the district.

(2) The charge shall be due and payable as soon as imposed and billed, and if not paid within 60 days after the billing date, the charge shall become delinquent.

(3) In case the sums received from the charges exceed the total cost of items for which the charges are imposed, the surplus shall be placed in the general fund of the district and used to pay cost of construction. Upon dissolution of the district, any amount of surplus remaining shall be prorated and refunded to the landowners who paid the charges. [Amended by 1991 c.459 §425c]

**547.145** [Repealed by 1969 c.345 §20]

**547.150 Payment of claims; warrants; nonpayment; interest-bearing warrants; charge or levy of tax to pay.** All claims against the district shall be paid by warrants drawn on the district treasurer and signed by the president and secretary of the board. When any warrant is not paid when presented to the treasurer because of lack of funds in the treasury, such fact shall be indorsed on the back of the warrant, and such warrant shall draw interest thereafter at the rate of six percent per annum until there is money on hand to pay the amount of the warrant and the interest then accumulated. No interest shall be allowed on warrants after sufficient funds are in the treasury to pay the indorsed warrants and interest. The secretary shall give notice by publication whenever sufficient funds are available to pay outstanding warrants. The board shall charge or levy each year a sufficient amount of money to pay the outstanding warrants of the district to the extent permitted within the constitutional limitation. [Amended by 1991 c.459 §425d]

#### **ENGINEER; PLAN FOR RECLAMATION; COMMISSIONERS; ASSESSMENT OF BENEFITS**

**547.205 Appointment of engineer; duties; surveys; report; maps.** Within 30 days after organizing, the board of supervisors shall appoint a competent civil engineer as



chief engineer, who may be an individual, partnership or corporation, and who shall engage such assistants as the board of supervisors may approve. The chief engineer shall:

(1) Have control of the engineering work in the district.

(2) Make all necessary surveys of the lands within the boundary lines of the district, as described in the petition, and of all lands adjacent thereto that may or will be improved or reclaimed in part or in whole by any system of drainage or levees that may be outlined and adopted.

(3) Make a report in writing to the board of supervisors with maps and profiles of the surveys, which report shall contain a plan for draining and reclaiming the lands described in the petition or adjacent thereto from overflow of or damage by water, and which maps and profiles shall indicate so far as necessary the physical characteristics of the lands, and location of any public roads, railroads and other rights of way, roadways and other property or improvements located on such lands.

**547.210 Engineer's report; adoption by supervisors; report constitutes "Plan for Reclamation"; exclusion of lands not benefited; certain irrigated lands deemed to be benefited.** (1) The chief engineer shall make a report in writing to the board of supervisors whenever the board requires. Upon receipt of the final report of the engineer concerning surveys made of the lands contained in the district, and plans for reclaiming the same, the board shall adopt the report or any modification thereof approved by the chief engineer. The adopted report shall be the plan for draining and reclaiming such lands from overflow or damage by water, and shall be known and designated as the "Plan for Reclamation." The plan shall be filed with the secretary of the board of supervisors and by the secretary copied into the records of the district.

(2) Any lands included in the district, which will not be reclaimed or benefited by the construction of the work as specified in the plan for reclamation, may be excluded from the district by order of the county court. Any charge billed to an owner of land so excluded shall be refunded to the person paying the same. However, any irrigated lands contributing to the wet, swamp or overflowed condition of any lands of the district, the waste or seepage waters from which lands will be carried by and disposed of through the works specified in the plan for reclamation, shall be deemed benefited by the construction of the works as specified in the plan. [Amended by 1991 c.459 §425e]

**547.215 Commissioners; appointment; qualifications; quorum; continuing existence.** Upon adoption of the plan for reclamation, the county judge shall, by order, appoint three commissioners (who shall not be landowners in the district nor of kin within the fourth degree of consanguinity to any person owning land in the district), one of whom shall be a civil engineer and two of whom shall be freeholders residing within the state. A majority of the commissioners shall constitute a quorum and shall control the action of the board on all questions. Such commissioners shall constitute a body which shall continue in office and may be convened at any time by the county court for the purpose of correcting any errors, omissions or other mistakes that shall have been discovered in its original report as the same may have been amended and supplemented from time to time or for any other good cause shown. The court shall fill any vacancy occurring in such body of commissioners by appointment of a person who has the qualifications required by this section of the commissioner the person is to replace. Whenever said body of commissioners has been reconvened by the court, it shall thereafter make its report in response to the directions of the court and such report when completed shall be subject to ORS 547.245, with reference to a hearing thereon and a confirmation thereof by order or judgment of the court before such supplemental report shall go into effect. [Amended by 1953 c.434 §2; 2003 c.576 §506]

**547.220 Notice of appointment of commissioners; meeting; secretary of board of supervisors to furnish certain information; oath; officers.** The county clerk upon the filing of the order of appointment shall notify each commissioner of appointment by written or printed notice, and in the notice the county clerk shall state the time and place for the first meeting of the commissioners. The secretary of the board of supervisors shall attend the meeting, and shall furnish the commissioners a complete list of all lands in the district, and the names of the owners thereof, as were contained in the petition, at the date of the judgment of the court incorporating the district. The secretary shall also furnish the commissioners a copy of the plan for reclamation, with maps and profiles in the office of the secretary. The commissioners at the meeting, or within 10 days thereafter, shall each take and subscribe to an oath that they will faithfully and impartially discharge their duties as commissioners and make a true report of the work done by them. They shall also at the meeting elect one of their own number chairperson. The secretary of the board of supervisors shall be ex officio secretary of the commissioners. [Amended by 2003 c.576 §507]

**547.225 Assessment of benefits and damages by commissioners; report; compensation.** (1) Within 30 days after qualifying, the commissioners shall begin their duties. The chief engineer shall accompany them at all times, and render an opinion in writing when called for.

(2) The commissioners shall proceed to view the premises and determine the value of all lands within or without the district to be acquired and used for rights of way, holding basins or other works set out in the plan for reclamation. They shall assess the amount of benefits and the amount of damages, if any, that will accrue to each parcel of land, including irrigated lands, irrigation ditches and canals which contribute to the swampy, wet or overflowed condition of those lands, or any lands, public highways, railroads and other rights of way, roadways and other property which will be affected by the proposed reclamation work.

(3) For the purpose of determining benefits under the provisions of this section, all irrigated lands having an available water supply for irrigation that are adjacent to and on a higher level than other lands within the district and which fall naturally within the same watershed as the land within the district, shall be deemed contributing to the wet, swampy or overflowed condition of the lands of the district, and shall be deemed benefited by the construction of the works as specified in the plan for reclamation.

(4) The commissioners shall give due consideration and credit to any other drains, ditches, levees or other systems of reclamation which already have been constructed and which afford partial or complete protection to any tract or parcel of land in the new district.

(5) The public highways, railroads and other rights of way, roadways and other property shall be assessed according to the increased physical efficiency and decreased maintenance cost thereof by reason of the protection to be derived from the proposed works and improvements.

(6) The commissioners shall have no power to change the plan for reclamation.

(7) The commissioners shall prepare a report of their findings, which shall be signed by at least a majority of the commissioners and filed in the office of the county clerk of the county in which the district is organized. The secretary of the board of supervisors shall accompany the commissioners while engaged in their duties, and shall perform all clerical work of the board. The commissioners shall report to the board of supervisors the number of days each was employed and the actual expenses incurred. Each commissioner shall be paid \$5 per day

for services, and necessary expenses in addition thereto.

**547.230 Notice of report of commissioners; publication; form.** (1) Upon the filing of the report of the commissioners, the county clerk shall give notice thereof by publication once a week for three consecutive weeks in some newspaper published in each county in the district. It shall not be necessary for the notice to name the parties interested. The notice shall be in small type, in substantially the following form:

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Notice of Filing of Commissioners' Report for  
\_\_\_\_\_ Drainage District

Notice is given to all persons interested in the land included within the \_\_\_\_\_ drainage district, \_\_\_\_\_ County (or counties), Oregon, (here describe land or give boundaries of district) that the commissioners heretofore appointed to assess benefits and damages to the property and lands situate in the drainage district and to appraise the cash value of the land necessary to be taken for rights of way, holding basins and other works of the district within or without its limits, filed their report in this office on the \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, and you are notified that you may examine the report and file exceptions to all or any part thereof, on or before the \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

County Clerk of \_\_\_\_\_ County, Oregon.

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(2) Where lands in different counties are contained in the report, the notice shall be published in some newspaper in each county in which the lands so affected are situated.

**547.235 Exceptions to report or assessment; hearing by court; modifications; transmission of judgment and report to supervisors and county clerks; appeal from judgment.** The drainage district or any owner of land in the district may file exceptions to the report or to any assessment of either benefits or damages, within 10 days after the last day of publication of the notice provided for in ORS 547.230. All exceptions shall be heard by the court and such amendments and modifications made to the report of the commissioners as may in the court's judgment be equitable. When it appears to the satisfaction of the court, after having heard and determined all the exceptions, that the estimated cost of the improvement contemplated in the plan for reclamation is less than the benefits to be derived therefrom, the court shall approve and confirm the

commissioners' report, as so amended and modified. The county clerk shall transmit a certified copy of the judgment and copy of the commissioners' report, as confirmed or amended by the court, to the secretary of the board of supervisors of the district and to the clerk of each county having lands in the district, or affected by the report, where the same shall become a permanent record. Each such county clerk shall receive a fee of \$3.75 for receiving, filing and preserving the same. Any person may appeal from the judgment of the court. [Amended by 1971 c.621 §39; 1975 c.607 §42; 1979 c.833 §34; 1981 c.835 §16; 2003 c.576 §508]

**547.240 Dissolution of district if cost exceeds benefits; obligations and expenses; additional charges.** If after determining the objections made to the commissioners' report, the court finds that the estimated costs of works and improvements as reported by the commissioners, or as amended by the court, exceed the estimated benefits, the court shall then render a judgment, declaring the incorporation of the district to be dissolved as soon as all costs incurred, which shall include court costs and all obligations and expenses incurred in behalf of the district by the board of supervisors, are paid. If the uniform charge made under ORS 547.140 is found insufficient to pay all the costs, the board of supervisors shall make such additional uniform charges as will be necessary to pay the deficiency. [Amended by 1991 c.459 §425f; 2003 c.576 §509]

**547.245 Reassessment of benefits.** At any time after the expiration of five years from the confirmation of the report of the commissioners, as provided by ORS 547.235, and upon the filing of a petition with the county clerk signed by at least one-tenth of the owners of the lands within the drainage district or the owners of at least one-tenth of the lands within such district, setting forth that the original assessments or benefits are inequitable and unjust, the county court shall appoint three commissioners, as provided by ORS 547.215, to reassess the benefits in the district. The commissioners shall report the reassessment to the court. Upon the filing of the report of the commissioners, the county clerk shall give notice of hearing thereon by publication once a week for three consecutive weeks in some newspaper published in each county in the district, the last insertion to be made at least 15 days prior to the hearing. At least 10 days before the day set for hearing, exceptions may be filed by any interested person, and upon hearing the same the court shall approve the report or direct how it shall be modified and, when so modified or approved, shall confirm it. The assessment as confirmed shall take the place of all prior assessments; provided,

that in no case shall the total amount of assessments be less than the outstanding obligations. The county clerk shall transmit a certified copy of the court's judgment and copy of the commissioners' report, as confirmed or amended by the court, to the secretary of the board of supervisors of the district and to the county clerk of each county having lands in the district. [Amended by 2003 c.576 §510]

**547.250 Changes in plan for reclamation; petition for amendment of plan; notice.** The board of supervisors shall have power to make any change in the plan for reclamation by action of the board until such time as the commissioners have filed their report. After that all changes shall be made as follows:

(1) The board of supervisors, for and in behalf of the district, or the owners of land adjacent to the district, may file a petition in the office of the clerk of the court which organized the district, praying the court to amend its former judgment incorporating the district, by correcting the names of landowners, by striking out any such names, by adding, striking out or correcting the descriptions of any lands within or alleged to be within the boundary lines of the district, or in any other manner.

(2) The petition may ask permission of the court to amend or change the plan for reclamation or to correct any errors, omissions or other mistakes that have been discovered in the plan or may ask that the boundary lines of the district be extended so as to include lands not described by and included in the petition and judgment of the court incorporating the district. However, in no case shall any lands be included in the district other than the lands described in the original petition for the creation of the district and in the judgment of the court incorporating it, unless the persons shown by the records of the county to be the owners of not less than 60 percent of the acreage sought to be brought within the boundary lines of the district and not described in and included in the original petition and judgment of the court incorporating such district, shall first sign and file with the court a petition therefor.

(3) If the petition asks that the lines of the district be in any manner changed, it shall also ask the court to appoint three commissioners, as provided for under ORS 547.215, to appraise the land that shall be taken for rights of way, holding basins, or other works, or assess the benefits and damages to any lands, public highways, railroad and other property already in the district, or that may be annexed to the district by the proposed amendments and changes to the

plan for reclamation or the proposed change in the boundary lines. As soon as the petition is filed the clerk of the court shall give notice in the manner and for the time provided for in ORS 547.020, the notice to be substantially in the following form:

Notice of Drainage Hearing.

To the owners and all persons interested in the lands corporate and other property in and adjacent to \_\_\_\_\_ Drainage District:

You are notified that (here state by whom petition was filed) has filed in the office of the county clerk of \_\_\_\_\_ County, \_\_\_\_\_, a petition praying the county court for permission to (here insert the prayer of the petition), and unless you show cause to the contrary on or before the first day of the next term of the \_\_\_\_\_ County Court to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, the prayer of the petition may be granted.

County Clerk of \_\_\_\_\_ County.

[Amended by 2003 c.576 §511]

**547.255 Objections to petition; findings; judgment; recording.** Any owner of land located in the district, or any owner of land located outside of the district that will be affected by the proposed changes, amendments, and corrections enumerated in the petition, may file objections to the granting of the prayer of the petition, on or before the first day of the term of court at which the petition is to be heard. The court shall hear the petition and all objections filed against it in a summary manner and enter a judgment according to its findings. The clerk of the court shall, within 15 days after the granting of the judgment, transmit a certified copy of the judgment and of the petition to the secretary of the board of supervisors, and to the recorder of deeds of each county having land in the district. Each such recorder shall file and preserve the same in the recorder's office, for which the recorder shall receive a fee of \$3.75. [Amended by 1971 c.621 §40; 1975 c.607 §43; 1979 c.833 §35; 1981 c.835 §17; 2003 c.576 §512]

**547.260 Appointment of commissioners when plan amended; subsequent proceedings; court costs.** (1) If the judgment of the court provides that the plan for reclamation may be amended, changed or corrected or the boundary lines of the district extended, the court shall appoint three commissioners, possessing the same qualifications as the commissioners appointed under ORS 547.215, to appraise property to be taken, assess benefits and damages, and esti-

mate the cost of improvements the same as is required of commissioners acting under ORS 547.225. The commissioners shall make their report in writing and file it with the county clerk, after which the case shall be proceeded with in the same manner as is provided for the organization of drainage districts.

(2) If the petition is dismissed the district shall pay the cost; but if the petition is sustained in whole or in part the objectors shall pay the court costs. [Amended by 2003 c.576 §513]

**547.265 Amendment of plan where works or charge insufficient; additional charge.** Where the works set out in the plan for reclamation of any drainage district are found insufficient to reclaim in whole or in part any or all of the land of the district, the board of supervisors may formulate new or amended plans containing new ditches, levees or other works, and additional assessments may be made in conformity with the provisions of ORS 547.225, the same to be made in proportion to the increased benefits accruing to the lands because of the additional works. If it should be found at any time that the total of the charges made under ORS 547.455 to 547.485 is insufficient to pay the cost of works set out in the plan for reclamation or additional work done under this section, the board of supervisors may impose an additional charge to provide funds to complete the work, provided the total of all charges does not exceed the total amount of benefits assessed. [Amended by 1991 c.459 §425g]

## WORKS AND IMPROVEMENTS OF DISTRICT

**547.305 Entry on land; acquisition of property; water filings and appropriations; condemnation of property devoted to public use; right of way across state lands.** (1) The officers and employees of any drainage district shall have the right to:

(a) Enter upon any land in the manner provided by ORS 35.220.

(b) Locate the necessary drainage or irrigation works and the necessary branches for the same, on any lands that may be deemed best for such location.

(c) Acquire, either by lease, purchase, condemnation or other legal means, all lands, rights of way, easements and other property necessary for the construction, operation or maintenance of any drainage or irrigation works, including the enlargement, improvement or extension of any natural or artificial waterway for such purposes.

(d) Make all necessary water filings or appropriation of water under the general laws of Oregon for irrigation of lands within such district.

(2) The property, the right to condemn which is hereby given, shall include property already devoted to public use that is less necessary than the use for which it is required by the district, whether used for drainage, irrigation or any other purpose. The right of way is hereby given, dedicated and set apart to locate, construct and maintain such drainage or irrigation works over and through any of the lands that are now or may be the property of this state.

(3) In the acquisition of property or rights by condemnation, proceedings under the provisions of this section shall be brought in the name of the district under the provisions of ORS chapter 35. [Amended by 2003 c.477 §8]

**547.310 Board authority regarding reclamation works; contracts; engineer's duties.** (1) The board of supervisors shall have full power and authority to:

(a) Build, construct and complete any works and improvements needed to carry out the plan of reclamation.

(b) In the name of the district, make all necessary water filings and appropriations of water for the subsequent irrigation of the lands within the district.

(c) Construct, operate and maintain irrigation works for the irrigation of the lands within the district.

(d) Hire personnel and purchase machinery, equipment and supplies.

(2) The board may after advertising for bids, let a contract for construction of the whole or any part of the drainage or irrigation works to the lowest responsible bidder, which contract shall be in writing. The complete plans and specifications for the drainage or irrigation of the lands shall be attached to and made a part of each contract. Good and sufficient bond, running in favor of the district, shall be required of each contractor, conditioned that the contractor will well and truly comply with all the provisions of the contract and perform all work in accordance with the terms thereof.

(3) The chief engineer shall be superintendent of all the works and improvements and shall, whenever required, and at least once each year, make a full report to the board of all work done and improvements and make such suggestions and recommendations to the board as the chief engineer deems proper. [Amended by 1989 c.182 §31]

**547.315 Connecting existing improvements; procedure; connection with improvements outside district.** (1) At the time of the construction in any district of the plan for reclamation, all ditches or systems of drainage already constructed in the district and all watercourses shall, if necessary

to the drainage of any lands in the district, be connected with and made a part of the works and improvements of the plan of drainage of the district. But no ditches, drains or systems of drainage constructed in the district shall be connected therewith, unless the consent of the board of supervisors is first obtained. This consent shall be in writing and shall particularly describe the method, terms and conditions of such connection, and shall be approved by the chief engineer. The connections, if made, shall be in strict accord with the method, terms and conditions laid down in the consent.

(2) If the landowners wishing to make such connection are refused by the board of supervisors or decline to accept the consent granted, such owners may file a petition for such connection in the circuit court having jurisdiction in the district, and the matter in dispute shall in a summary manner be decided by the court, whose decision shall be final and binding on the district and landowners.

(3) No connection with the works or improvements of the plan of drainage of the district or with any ditch, drain or artificial drainage wholly within the district shall be made, caused or effected by any landowner, company or corporation, municipal or private, by means of or with any ditch, drain, cut, fill, roadbed, levee, embankment or artificial drainage wholly without the limits of the district, unless such connection is consented to by the board of supervisors, or in the manner hereinbefore provided.

**547.320 Powers of districts regarding irrigation works; bonds.** Whenever it appears necessary, proper or beneficial to irrigate any of the lands within any drainage district, whether or not the drainage works have been actually acquired or constructed, the district may cause irrigation reservoirs, canals, ditches, and other works to be constructed, operated and maintained. To this end the district shall in all respects have the same power and authority as is conferred respecting drainage, and all powers conferred upon drainage districts by ORS 547.305, 547.310, 547.355 and 547.360 with respect to drainage shall be construed to include irrigation. However, any bonds issued solely for irrigation purposes shall be known as "Irrigation bonds of \_\_\_\_\_ drainage district."

**547.325 Powers of districts under 1,000 acres regarding domestic water supply.** (1) Any drainage district embracing less than 1,000 acres may:

(a) Within and adjacent to the district, own, construct, install, contract to use and to receive service from, and buy and sell, wells, reservoirs, pumps, pipelines and other equipment used to supply water from wells

for domestic purposes and for watering lawns and gardens.

(b) Buy and sell, deliver, supply and dispose of water for domestic purposes and for watering lawns and gardens, for profit, to any person within the limits of such drainage district or adjacent thereto.

(c) Fix and collect the rates and charges therefor.

(2) The board of supervisors may act for such district in exercising the power and authority herein provided.

### **CONTRACTS WITH UNITED STATES FOR RECLAMATION**

**547.355 Contracts with United States for reclamation by drainage or irrigation authorized.** The board of supervisors of any drainage district, whenever it is determined by the board that it is for the best interests of the district, may enter into a contract with the United States for the reclamation by drainage or irrigation of the lands within the boundaries of the district, under the provisions of the Act of Congress of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto, and especially the Act of Congress approved August 13, 1914, entitled, "An act extending the period of payment under reclamation projects, and for other purposes," commonly known as the "Twenty-Year Extension Act."

**547.360 Payment of amounts due; assessments on lands; lien thereof; collection.** The board of supervisors of any drainage district shall provide by a resolution, adopted at a regular meeting or at a special meeting called for that purpose, for the payment of the amounts to become due under such contract with the United States, according to the provisions of the contract, by assessment upon the lands which are to be benefited by the drainage or irrigation. The assessments shall be a lien upon the lands of the district to the same extent as other assessments under the drainage laws of this state, and, except as provided in ORS 547.492, shall be collected by the tax collector of the county within which the lands are situated the same as other taxes are collected. [Amended by 1991 c.459 §425h]

### **DISTRICTS WEST OF CASCADES; CONSTRUCTION AND MAINTENANCE OF DITCHES**

**547.405 Districts west of Cascades; control of supervisors over improvements.** The boards of supervisors of all drainage districts lying west of the Cascade Mountains, whether or not organized under the Drainage District Act, shall have supervision and control of all drainage ditches,

laterals, drains, canals, sloughs, waterways or conduits within the boundaries of their districts and may prescribe the width and grade thereof. They may construct and maintain ditches, laterals, drains, canals, sloughs, waterways or conduits within the boundaries of their districts.

#### **547.410 Maintaining improvements; notice to owner or occupant of premises.**

(1) Whenever the engineer or secretary of such a drainage district notifies the supervisors that any ditch, lateral, drain, canal, slough, waterway or conduit is less efficient, by reason of the failure of the owner of the premises upon which it is situated to repair, clean or grade the same, the board of supervisors shall serve or cause to be served upon such owner, if the owner is known and residing within the county in which the district is situated, or if not a resident of the county, then upon the occupant of the premises, a notice in writing notifying the owner or occupant of the clogged or obstructed condition of the ditch, lateral, drain, canal, slough, waterway or conduit.

(2) The notice shall be served by delivering to the owner, occupant or person in charge of the premises a copy thereof certified to be such by the person serving it, or if there is no occupant or the owner is not a resident of the county, then the notice shall be served by posting a copy of it in a conspicuous place upon the premises. Immediately after serving or posting the notice, the person serving it, by authority of the board of supervisors, shall file the original notice with the county clerk of the county in which service is made, together with a return on the notice stating the time and manner of making service. The notice and return, when so filed, shall be retained as a public record of the county.

**547.415 Failure of owner or occupant to act; maintenance by supervisors.** If the owner or occupant of the premises upon which the clogged or obstructed ditch, lateral, drain, canal, slough, waterway or conduit is situated fails for 10 days after being notified of the existence of such clogged or obstructed condition, to repair, clean or grade the ditch, lateral, drain, canal, slough, waterway or conduit or remove the obstruction therefrom, the board of supervisors shall immediately repair, clean or grade the same and cause it to be promptly placed in a proper and efficient condition.

**547.420 Liability for cost of work; notice of claim of lien; foreclosure; sale of land.** (1) Upon completion of the work the board of supervisors shall bill the owner or occupant of the premises for the expense necessarily incurred in the repair, grading or

cleaning of the canal, ditch, lateral, drain, slough, waterway or conduit.

(2) If any charge remains unpaid beyond the due date thereof, the secretary of the district may file a notice of claim of lien with the county clerk of the county in which the lands for which the charges were billed are situated. The notice of lien shall be in writing and must contain:

(a) The name of the landowner or occupier who was billed.

(b) A statement of the amount claimed past due.

(c) A description of the land upon which the work was completed sufficient for identification.

(3) The county clerk shall cause the notice of lien to be recorded in the County Clerk Lien Record maintained under ORS 205.125. The amount of the charges and expense, as of the date the notice of lien is filed, shall constitute a first lien upon the lands or premises, except as to taxes. If the charges and expenses are not paid and the lien discharged by the owner or occupant within 30 days from the date the notice is filed, suit or action may be brought in the name of the drainage district for the foreclosure of the lien. The suit or action shall be brought by the district attorney, or, at the option of the board, by an attorney employed by the board. The lands affected thereby shall be sold under execution for the payment and satisfaction of the lien and of the costs and disbursements incurred in connection with the prosecution of the suit or action. [Amended by 1991 c.459 §425i]

**547.425 Prohibited practices.** No person shall:

(1) Throw, dump or place or allow to be thrown, dumped or placed, any rubbish, refuse or any article or thing in any ditch, lateral, canal, slough, waterway or conduit used as a part of or in connection with any drainage works or drainage plant or drainage system or any waterway under the control of any drainage district lying west of the Cascade Mountains; or

(2) Befoul or pollute or allow to be befouled or polluted any such ditch, lateral, canal, slough, waterway or conduit; or

(3) In any manner obstruct or permit to be obstructed by stock any such waterway, canal, ditch, lateral, slough or conduit.

**547.430 Civil liability for expense of removal of filth or obstruction; recovery by action.** Any person who throws, dumps or places or allows to be thrown, dumped or placed, any rubbish, refuse, or any article or thing in any such ditch, lateral, canal, slough, waterway or conduit shall, in addition

to the penalty provided in ORS 547.990, also be liable to the owner of the ditch, lateral, canal, slough, waterway or conduit, or other person or district having control, charge or supervision of the same, for all expense legitimately occasioned or incurred by such person or district in the removal of any such rubbish, refuse or other article or thing or the prevention of such befolement or pollution, and for all damage that may be done or occasioned to the ditch, lateral, canal, slough, waterway or conduit by reason of such dumping, throwing or placing of the rubbish, refuse or article or thing, or the befolement or pollution. The sum may be recovered in a civil action brought in the name of the person or district having control of or using the ditch, lateral, canal, slough, waterway or conduit that was injured, damaged, befouled, polluted or obstructed.

## ASSESSMENTS, CHARGES AND TAXES

**547.455 Annual charge or assessment; computation; apportionment; liability of state lands; payment of assessments by bonds, coupons or warrants.** (1) The board of supervisors shall each year make a computation of the whole amount of money to be raised by the district through charges or assessments for the ensuing year for any purposes whatsoever in carrying out the provisions of the Drainage District Act, including maintenance and operation and estimated delinquencies on charges or assessments. This amount when determined by the board shall constitute an assessment upon all the land included in the district and shall be apportioned by the board in accordance with the report of the commissioners as confirmed or amended by the court as provided for in ORS 547.235.

(2) Any land owned by any person totaling less than one acre shall be charged or assessed as one acre.

(3) Any land, the title to which is vested in the state, or state lands sold under contract in any drainage district, shall be subject to charge or taxation by the district, and the full amount of the charge or assessment due against such lands shall be paid to the district at the same times and in the same manner as other drainage district charges and assessments are paid.

(4) The tax collector shall receive any past due bond of the drainage district or any past due interest coupon from any bond of the district in payment of any charge or assessment made for the purpose of paying bonds or bond interest of the district, and shall receive in payment of charges or assessments levied for operation and maintenance purposes any warrants drawn upon the operation and maintenance fund, such war-

rants received in payment of charges and assessments to be in order of issuance. [Amended by 1953 c.446 §3; 1991 c.459 §425j]

**547.460 County, city and town lands subject to taxation, assessment or charges.** Any land situated within a drainage district, the title to which is vested in any county, city or town, shall be subject to taxation, assessment or charge by the district. The full amount of taxes or assessments due against the land or the full amount of charges imposed upon the county, city or town shall be paid to the district at the same times and in the same manner as other drainage district taxes, assessments or charges. [Amended by 1991 c.459 §425k]

**547.465 Assessment or charge of low lands used for growing crops.** Whenever lands located in a drainage district which, because of their low elevation, were not assessed benefits in accordance with ORS 547.225, are used for growing crops, the board of supervisors may levy an annual assessment against the lands or may impose a charge upon the owners of the lands for maintenance and operation. The assessment or charge shall not exceed 100 percent of the rate levied against assessed lands in the district, or imposed upon owners of land in the district, having the lowest elevation. The charges or assessments shall be collected in the same manner as other charges or assessments for maintenance and operation in drainage districts are collected. [Amended by 1991 c.459 §425L]

**547.470 Extra assessment or charge for lake drainage.** When, in the judgment of the board of supervisors of any drainage district, it is deemed necessary or expedient to drain any lake, which entails extra or additional work in excess of that required in the drainage of lands of higher elevation and where the cost of maintenance and pumping to maintain drainage of such lake will be in excess of that necessary for the reclamation and maintenance of lands within the district other than such lake, an extra assessment or charge for such additional work or a higher rate for such pumping and maintenance may be charged and made against the lands, or owners or occupants of the lands, covered by such lake, to the extent of the respective additional benefits to such lands over lands of a higher elevation in the district and benefited thereby. [Amended by 1991 c.459 §425m]

**547.475 List of assessments and apportionments.** The board of supervisors shall prepare a list or record of assessments and apportionments, giving the description of the ownership or holdings of each person therein assessed, which shall be certified by the board in the manner provided in ORS

310.060 not later than June 15 of each year to the county assessor of each county in which lands of the district are situated. The county assessor shall enter the assessment upon the county assessor's roll against the property therein described, in the same manner as other municipal taxes are entered by the county assessor. [Amended by 1963 c.168 §1; 1991 c.459 §425n]

**547.480 Collection of tax; disposition.** The collection of the tax shall be coincident with collection of the state and county tax, and shall be governed by the laws relating thereto, except that the tax collector shall collect and account for the tax for operation and maintenance separate from the taxes levied by the district for other purposes. When paid to the county treasurer all taxes or assessments levied and collected for operation and maintenance shall be carried in a fund to be known as the operation and maintenance fund. All warrants issued in payment for operation and maintenance, as provided in ORS 547.150, shall be drawn against and paid out of this fund. The county treasurer shall make returns to the secretary of the board of supervisors, and shall pay over and account for all moneys collected thereon quarterly to the treasurer of the district. [Amended by 1973 c.305 §19]

**547.482 Filing boundary change with county assessor and Department of Revenue.** For purposes of ad valorem taxation, a boundary change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225. [2001 c.138 §42]

**Note:** 547.482 was added to and made a part of ORS chapter 547 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**547.485 Governing body of county to make assessment and levy upon failure of supervisors to do so.** In case of neglect or refusal of the board of supervisors to cause such assessment and levy to be made, the assessment and levy shall be made by the governing body of the county in which the office of the board of supervisors is situated, sitting for the transaction of county business, in the same manner that the court or board levies county taxes. The levy and assessment shall contain the apportionments and description of ownership holdings of each person assessed in the same manner as provided in ORS 547.475 and shall be certified to the assessor not later than July 15 in the manner provided in ORS 310.060. All expenses incident thereto shall be borne by the district. The levy and assessment shall be entered on the county tax roll by the county assessor in the manner provided in ORS 547.475. [Amended by 1963 c.168 §2; 1991 c.459 §425o]



**547.490 Waiver of penalty or interest by certain districts.** All drainage districts containing not more than 2,000 acres, organized under the provisions of the Drainage District Act, may waive payment of penalty or interest, or both, on district assessments. County tax collecting officers are authorized to collect and receipt for assessments levied by any such drainage district, waiving payment of penalty or interest, or both, when presented with a certified copy of resolution or other action of the drainage district waiving such payment.

**547.492 Alternative charge or assessment method.** (1) The board of supervisors of a drainage district may provide by resolution for the imposition, billing and collection of charges or assessments of the district in the manner provided under ORS 545.482, 545.484, and 545.494 to 545.508 for irrigation districts. The method of collecting district charges or assessments authorized by this section shall be in lieu of the method provided for under ORS 547.455 to 547.490.

(2) A resolution adopted under this section may apply to charges or assessments for operation and maintenance, repairs, bond or interest payments, payments due or to become due to the United States under any contract of the district with the United States or other expenses of the district.

(3) Where, in ORS 545.482, 545.484 and 545.494 to 545.508, the board or an officer of an irrigation district is referred to, the corresponding board or officer of a drainage district shall perform the required actions. [1985 c.803 §2; 1991 c.459 §425p]

**547.495 Crops bound by lien; exceptions.** All drainage districts organized pursuant to the provisions of the Drainage District Act shall have a lien on all crops grown on lands within such districts for that portion of the annual charges or assessments, levied against the lands on which the crops are grown, or imposed upon the owners or occupants of the land, that are for maintenance and operation of such districts. This lien shall be prior to every other lien, mortgage or encumbrance on the crop, except labor liens now granted by the laws of Oregon and crop mortgages given by landowners in the district to federal or state loaning agencies set up by the federal government or the state to secure loans, the proceeds of which are used in the production of crops of such landowners, provided such loaning agencies certify to the districts that such loans cannot otherwise be made to the landowners. The lien shall be in addition to any other lien securing the payment of maintenance and operation charges or assessments, and shall be a continuing one and shall bind the crops after, as well as before, they have been

gathered; provided, that the share of any tenant who has leased such lands on a share rent basis shall be exempt from the lien to the extent of three-fourths of the entire crop. [Amended by 1991 c.459 §425q]

**547.500 Notice or claim of crop lien; filing; contents.** The board of supervisors of every drainage district which may elect to claim the benefits of ORS 547.495 to 547.515 shall file with the county clerk of the county in which the land is located, any time before the removal of the crop upon which a lien is desired, a statement verified by the oath of the secretary of the board or some person having knowledge of the facts, setting forth the amount of that portion of the annual charges or assessments for maintenance and operation levied against the land, or imposed upon the owners or occupants of the land, on which the crop is grown and for which a lien is desired, with a description of the land sufficient for identification, the name of the owner of the crop, or reputed owner if known, and the name of the owner of the land on which the crop is grown. [Amended by 1991 c.459 §425r]

**547.505 Recording of crop lien claim by clerk; indexing.** The county clerk shall record the claim in a book kept for that purpose. The record shall be indexed as the record of chattel mortgages is kept and indexed.

**547.510 Form of crop lien claim; foreclosure.** (1) A claim for lien substantially in the following form shall be sufficient:

#### NOTICE OF LIEN UPON CROPS

Notice is given that \_\_\_\_\_, a drainage district organized under and pursuant to the provisions of ORS chapter 547, claims a lien upon that certain crop of \_\_\_\_\_ growing on the following described lands located in the drainage district in \_\_\_\_\_ County, Oregon: \_\_\_\_\_, for that portion of the annual charges or assessments levied by the above-named drainage district against lands, or owners or occupants of the lands, on which the crop is growing, for maintenance and operation of the district, in the sum of \$\_\_\_\_; that the name of the owner or reputed owner of the crop is \_\_\_\_\_; that the owner of the land on which the crop is growing is \_\_\_\_\_; that no part of the charge or assessment for which a lien herein is claimed has been paid, except \$\_\_\_\_; and that there now is due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of \$\_\_\_\_.

\_\_\_\_\_, Claimant.

State of Oregon, )

County                    ) ss.  
 of \_\_\_\_\_         )

I, \_\_\_\_\_, being first duly sworn, on oath say that I am \_\_\_\_\_ of the drainage district named in the foregoing claim, that I have personal knowledge of the facts therein set out; that I know the contents thereof, and believe the same to be true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

Notary Public for Oregon (Seal)  
 My commission expires \_\_\_\_\_.

(2) The lien so created may be foreclosed in the manner provided in ORS 79.0601 to 79.0628. [Amended by 1961 c.726 §418; 1991 c.459 §425s; 2001 c.445 §176]

**547.515 Removal of crops to another county; recording of notice in latter county; rights of purchasers and mortgagees.** When such crops are removed from the county in which the notice of lien is recorded, the lien shall be suspended as to subsequent purchasers and mortgagees thereof in good faith and for a valuable consideration, from and after 30 days from the time of such removal, unless within 30 days from the time of such removal the notice of lien is recorded in the county to which the property is removed. The lien shall remain suspended until the notice of lien is recorded in the county to which the crop is removed; but shall be a lien upon the crop while it is in any county in which the notice of the lien is recorded.

**547.520** [Repealed by 1989 c.182 §49]

## BONDS OF DISTRICT

**547.555 Bonds; issuance; interest; place of payment; maturities.** (1) The board of supervisors may, if in its judgment it seems best, and subject to the approval of the electors of the district, issue bonds of the district for any purpose necessary or convenient to carry out the provisions of the Drainage District Act, including refunding of outstanding bonds, in denominations of not less than \$100, bearing interest from date at a rate determined by the board, payable semiannually, to mature at annual intervals within 40 years, commencing after a period of years not later than five years, to be determined by the board of supervisors, both principal and interest being payable at some convenient insured institution or trust company, as those terms are defined in ORS

706.008, that is named in the bonds. Principal and interest, including principal, interest and premium payments made to redeem bonds under ORS 547.580, may be payable at the office of the treasurer of the district.

(2) The bonds shall be signed by the president of the board, attested with the seal of the district and by the signature of the secretary of the board. They may be issued so as to mature serially in annual amounts so as to be approximately equal, principal and interest, and may be issued so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds. [Amended by 1969 c.694 §36; 1977 c.188 §8; 1983 c.740 §215; 1991 c.459 §425t; 1997 c.631 §490; 2001 c.215 §20]

**547.560 Sale of bonds; procedure.** The board of supervisors may sell, from time to time, the bonds which have been authorized, in such quantities as may be necessary and most advantageous. Before making any sale, the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of bonds and the day, hour and place of such sale, and shall cause notice thereof to be given by publication for at least 30 days in three newspapers published in Oregon, one of which shall be a newspaper published in the county in which the office of the board is situated, if there is a newspaper published in that county, and in any other newspaper at its discretion. The notice shall state that sealed proposals will be received by the board of supervisors at its office for the purchase of bonds until the day and hour named in the resolution. At the time appointed, the board shall open the proposals and may reject any and all bids. After offering the bonds for sale, if no satisfactory bid is received the board may use them for any purpose for which the proceeds from the sale of bonds may be used, but the board shall in no event sell or dispose of any of said bonds for less than 90 percent of the face value thereof. Nothing in this section shall inhibit the district from providing for the drainage of lands within the district, in units or portions, from time to time.

**547.565 Payment of bonds from assessments.** The bonds and the interest thereon and all obligations for the payment of money authorized and incurred by such district shall be general obligations of the district and shall be paid by the revenue derived from the annual assessments upon the real property within the district. All the real property within the district shall be liable to be assessed for such payments under and subject to the provisions of ORS 547.455 to 547.485. [Amended by 1993 c.97 §18]

**547.570 Bond proceeds; depository.** (1) The treasurer shall account for and pay over as required by law and as ordered by the board, any money received by the treasurer on the sale of the bonds.

(2) If the board deems it more expedient, the board may, by resolution, select some suitable bank or other depository as temporary treasurer to receive the money derived from the sale of bonds, and to hold and disburse the moneys on the orders of the board as the work progresses, until the fund is exhausted or transferred to the treasurer by order of the board of supervisors. [Amended by 1969 c.345 §15]

**547.575 Bond fund account; general fund.** The treasurer shall keep a bond fund account into which shall be covered all moneys arising from the sale of refunding bonds and sufficient money arising from assessment and levy to meet the next installment of principal and interest upon the bonds of the district. From the fund the treasurer shall pay the principal and interest on bonds as they mature and the bonds and interest coupons are presented. Moneys received from the sale of bonds other than refunding bonds, and otherwise for the construction and acquisition of works and all other moneys whatsoever shall be covered into a general fund from which shall be defrayed all obligations of the district other than those in this section above described.

**547.580 Retirement of bonds before maturity; call provisions.** (1) After five years from the issuance of bonds, the board may direct the district treasurer to redeem so much of the bonds not yet due as surplus funds permit at the lowest value at which they may be offered for liquidation, or call bonds at a premium of three percent. Notwithstanding anything contained in ORS 547.555 to 547.580, the board may call for payment and retire before maturity any bonds issued in accordance with ORS 547.555 to 547.580.

(2) Notice of intention to call bonds for payment before maturity shall be given by the district board by publication in a newspaper published and regularly circulated in the counties in which the district lands lie, at least once a week for four successive weeks, beginning not less than 90 days prior to an interest-paying period. The notice shall state the number and amount of the bonds to be retired, the price to be paid, and the date and place where the same are to be paid.

(3) Bonds shall be retired in numerical order, and not otherwise. No bonds shall be retired under this section except on a day when interest is payable by the terms of the bonds and on and after the date named in the

published notice. Interest on bonds described therein shall cease after the date named in the published notice. [Amended by 1969 c.694 §39; 2001 c.215 §21]

## FUNDING AND REFUNDING OF DEBT UNDER 1909 ACT

**547.605 Funding and refunding of debt; bonds; place of payment.** The board of trustees of any drainage or levee district having an outstanding indebtedness of not less than \$3 per acre for each acre of land included in the district, evidenced by bonds or warrants of the district, may, if the board considers it for the best interests of the district, fund or refund the same or any part thereof and issue bonds of the district therefor in sums of not less than \$100 nor more than \$1,000, each having not more than 20 years to run, and bearing a rate of interest determined by the board of trustees, payable semiannually. Both principal and interest may be made payable at a place named by the board. The bonds shall be negotiable in a form to be selected by the board of trustees, numbered consecutively, signed by the president of the board and countersigned by the clerk of the county in which payable, who shall thereto affix the official seal. Interest coupons shall be attached to each bond. The bonds shall then be delivered to the treasurer of the district, who shall stand charged upon the official bond for all bonds delivered to the treasurer and the proceeds thereof. [Amended by 1969 c.694 §40; 1977 c.188 §9; 1981 c.94 §46; 2001 c.215 §22]

## 547.610 Sale or exchange of bonds; application of proceeds; cancellation of retired obligations; record of transactions.

(1) The board of trustees shall sell or exchange the bonds so issued, on the best available terms, for any legal indebtedness of the district. If the sale is made for money, the proceeds shall be applied to the payment of liabilities existing against the district at that time. When the bonds are exchanged for bonds or warrants or other legal evidence of district indebtedness, the district treasurer shall at once cancel the evidence of indebtedness by indorsing thereon the amount for which they were received, the word "canceled" and the date of cancellation.

(2) The district treasurer shall keep a record of all bonds issued, sold or exchanged under subsection (1) of this section by number, date of issuance, date of sale, amount, date of maturity, rate of interest, the name and post-office address of the purchaser, and if exchanged, what evidence of indebtedness was received therefor. This record shall be open at all times for public inspection. [Amended by 1969 c.694 §41; 2001 c.215 §23]

**547.615 Tax for payment of interest and principal; sinking fund.** The board of trustees shall cause to be assessed and levied each year upon the assessable property of the district, in addition to the levy authorized for other purposes, a sufficient sum to pay the interest on outstanding bonds issued in conformity with the provisions of ORS 547.605 to 547.620, accruing before the next annual levy, and such proportion of the principal as in their judgment will be for the best interests of the district, to create and raise a sinking fund to retire the bonds and to be used for no other purpose whatever. [Amended by 1969 c.694 §42; 2001 c.215 §24]

**547.620 Retirement of outstanding bonds; notice to bondholders to submit propositions; premium; calling of bonds.** (1) Whenever there is in the sinking fund a surplus of \$500 or more, over and above the interest maturing before the next levy, the district treasurer shall give notice for two weeks in one or more newspapers of general circulation printed and published in the county in which the district was first organized. The notice shall state the amount of such surplus and that on the day and hour named in the notice, sealed propositions will be received at the office of the district treasurer for surrender of bonds of the district.

(2) The district treasurer shall, at the time and place named, open the propositions and accept the lowest bid. However, no bid shall be accepted for an amount exceeding the par value of the bonds with accrued interest thereon and seven percent premium. If bids are not offered at that figure, or less, sufficient to exhaust the amount of surplus on hand, the board of trustees may then call in any bonds of the district, giving the numbers thereof in the exact order of their issuance beginning with the lowest or first number, and redeem the same at par value and five percent premium with accrued interest to date of such recall. Thereafter interest thereon ceases and the amount due shall be set aside for payment of the bonds whenever presented. [Amended by 1969 c.694 §43; 2001 c.215 §25]

#### **ALTERNATIVE METHOD OF REFUNDING INDEBTEDNESS OR ISSUING BONDS**

**547.655 Authority to adopt alternative procedure.** Any drainage district desiring to refund its outstanding indebtedness or issue bonds for any purposes may, in lieu of the procedure otherwise provided by law, elect to adopt the procedure provided by ORS 547.660 to 547.695.

**547.660 Exchange of refunding bonds for outstanding indebtedness.** The board of supervisors of any drainage district desiring to issue refunding bonds to replace or in satisfaction or discharge of any outstanding indebtedness may exchange such refunding bonds for the outstanding indebtedness in full compromise, satisfaction and discharge thereof, and shall issue the bonds in such denominations and in such amounts to the several holders of the indebtedness as may be found expedient and necessary in funding or refunding the indebtedness. The bonds may be serial, on the level payment plan or each of the bonds may be amortized, as the board of supervisors may by resolution determine. When the bonds so issued do not exceed in principal and rate of interest the indebtedness to be satisfied and for which the bonds are to be exchanged, it shall not be necessary for the board of supervisors to advertise their sale or to offer them at public sale.

**547.665 Numbering; maturities; negotiability; interest; place of payment; denominations; execution; registration; authority to retire bonds.** (1) The bonds shall be numbered consecutively, beginning with number 1 and following in numerical order. They shall mature in the manner provided by ORS 547.660, in annual amounts of principal and interest approximately equal, in not less than five nor more than 40 years from the date of issue, as the board of supervisors may determine. They shall be negotiable in form. The bonds shall bear interest at a rate determined by the board, payable annually or semiannually on dates determined by the board. Payment of principal and interest shall be at the place designated in the bonds and coupons. The bonds, except as otherwise provided in ORS 547.655 to 547.695, shall be each of the denomination of not less than \$100 nor more than \$1,000, shall be signed by the president and secretary, and the seal of the board of supervisors shall be affixed thereto.

(2) Each bond shall bear on its back the registration certificate of the treasurer of the district. Coupons for interest or for interest and principal, as the case may be, shall be attached to each bond and shall bear the facsimile signature of the secretary of the district. The district treasurer shall register the bonds in a book kept in the office of the treasurer for that purpose, in which shall be stated the number, date of issue and of sale, amount of the bond, time and place of payment, rate of interest, number of coupons attached, and any other description proper for future identification of each bond. However, the board of supervisors may call for payment and retire before maturity any bonds issued in accordance with ORS 547.655 to

547.695, on payment of the principal remaining unpaid at the date of call, together with earned interest to and including the date of the call for payment.

(3) The board of supervisors may stipulate that during the first period of the bond term, not exceeding five years, there shall be no payment of principal or interest. [Amended by 1969 c.694 §44; 1981 c.94 §47; 2001 c.215 §26]

**547.670 Offer by holders of indebtedness to surrender evidences thereof or accept proportional payment; sale of bonds; notice; publication.** (1) Before authorizing the issuance of such bonds, the board of supervisors shall require that the known holders, or their representatives, of all evidences of indebtedness to be refunded, shall submit to the board for its acceptance an offer to deliver and surrender all such evidences of indebtedness in exchange for bonds not exceeding the amount of the claim or debt owned by such creditor, or in lieu thereof, to accept in full payment of all such outstanding indebtedness so held by any such creditor a sum of money representing the proportion which the proposed refunding bond issue shall bear to the total outstanding indebtedness proposed to be refunded, compromised, satisfied and discharged, based on the par value of such proposed refunding bonds; the creditors and owners of the indebtedness to agree to absorb the loss between the amount of the outstanding indebtedness to be refunded and the amount of the refunding bonds at par and to receive such refunding bonds in full payment, satisfaction and discharge of the outstanding indebtedness.

(2) The offer shall be in writing and shall, upon being submitted to the board, be irrevocable until such time as the board, under ORS 547.655 to 547.695, has a reasonable opportunity to issue, sell and deliver such refunding bonds to replace and discharge the outstanding indebtedness on acceptance of the offer; provided, that the offer shall not be revoked while any suit, action or proceeding involving the issuance, sale or delivery of such refunding bonds is in process of determination nor until a reasonable time after the final determination of such suit, action or proceeding.

(3) When authorized by a majority vote of the electors of the district, the exchange may be made on a basis of less than par for the refunding bonds, in which event the board of supervisors shall, in its resolution declaring its intention to sell the refunding bonds, also require the secretary of the board to give notice of the proposed sale by publication thereof for four consecutive weeks in three newspapers within the state, one of

which shall be in the county in which the district is situated.

**547.675 Lien on land assessed for bond payment.** (1) Upon delivery of the bonds, the secretary of the district shall furnish to the county clerk of each county in which lands of the district are situated:

(a) A certified copy of the resolution of the board authorizing the bonds, of the resolution of the board fixing the annual per acre payments to be made in payment of the principal and interest of the bonds, and of the district treasurer's registration record;

(b) A certified statement of the lands within the district liable under the bonds, described in subdivisions of 40 acres except where the individual ownership thereof requires a description in lesser subdivisions or by metes and bounds or by calls; and

(c) A certified statement of the total amount of refunding bonds charged against each parcel of land, the amount of the annual payment thereof, the date of payment and the rate of interest.

(2) The county clerk shall record such information in a book to be provided by the county clerk for that purpose, which shall then be a bond lien docket of the drainage district for the lands of the district within the county and shall constitute the total of such charges or assessments and the maximum of the lien against the lands by reason of the bonds. This sum shall not be increased or enlarged by any subsequent assessment because of any delinquencies in payment of the bond lien and interest charge against any other tract or parcel of land in the district. Unpaid annual assessments or charges docketed therein shall bear interest at the rate of six percent per annum. All unpaid annual payments, principal and interest, shall remain a lien on the tract or parcel of land in favor of the district and shall have priority over all other liens and encumbrances except the lien of state, county and municipal taxes.

(3) Any time after issuance of the bonds, the owner of any tract or parcel of land may relieve the tract or parcel of the lien by paying to the county clerk, for the benefit of the district, the amount of the principal and interest remaining unpaid thereon. The clerk shall thereupon pay the money over to the district treasurer to be credited to the district's bond fund. The clerk shall note on the bond lien record the fact of such payment and of the satisfaction and discharge of the lien. Upon such payment of the lien on any tract or parcel of land, the tract or parcel shall forever thereafter be relieved from taxation or assessment for the payment of the bonds or of any bonds issued to refund the bonds, except for such assessment or

charge as may be levied by the board of supervisors to create an emergency fund, as provided in ORS 547.680.

(4) The collector of the district's assessment and taxes shall receive any past due bond of the district or any past due coupon on any bond of the district in payment of any of the charges and payments referred to in this section.

(5) The lien of the annual payments or charges shall be foreclosed as other drainage district liens are foreclosed. [Amended by 1969 c.694 §45; 2001 c.215 §27]

**547.680 Emergency fund; assessments for; use of.** (1) In addition to the annual payments for retirement of the bonds, the board of supervisors shall, during the first five years after the issuance of the refunding bonds, levy an annual assessment of 20 cents per acre upon each acre within the district. Thereafter, whenever there is any default in payment of any assessment levied by the district or in any of the annual payments referred to in ORS 547.675, the board shall levy an assessment of not to exceed 20 cents per acre, which shall be the same upon each acre within the district and shall be levied and collected at the time and in the manner provided by ORS 547.455 to 547.485.

(2) All moneys received from such assessments shall be placed by the treasurer of the district in a special fund designated "Emergency Fund." The emergency fund shall be used only to the extent of not to exceed 10 cents per acre per annum, for supplementing the bond fund in case of deficiency due to accident, delinquency or other contingencies. The emergency fund shall be disbursed by the treasurer upon order of the board of supervisors. [Amended by 1997 c.170 §53]

**547.685 Retirement of bonds before maturity; notice of call; date of payment; cessation of interest.** Notice of the call of bonds before maturity shall be given in the manner provided for retirement of irrigation district bonds before maturity. No bond issued under ORS 547.655 to 547.695 shall be called for payment before maturity except upon the day for payment of interest, or interest and principal, on the bond and on or after the day specified in the notice of call. All interest on bonds described in the notice shall cease after the day of the call, provided that on that date there are sufficient funds in the bond fund of the district to pay the call bonds.

**547.690 Judicial confirmation.** Bonds authorized and issued under ORS 547.655 to 547.685 may be confirmed by a court of competent jurisdiction in the manner provided by ORS 548.105 to 548.115.

**547.695 Sale of lands for delinquent charges; district as purchaser; resale; payment of proceeds into emergency fund; district to bid at tax sale.** The district shall appear as a bidder at the sale of any lands for delinquent annual charges or assessments made under ORS 547.655 to 547.690 or any other statute, and may purchase and take title to the lands and thereafter dispose of the same. On any sale by the district of lands so purchased, the proceeds, after payment of the expenses thereof, shall be paid into the emergency fund. At any tax sale where there is no other bidder, the district shall bid the full acreage of the tract or parcel of land for the amount of the delinquency, penalty and interest; provided, the district shall never bid less than the full acreage of the tract or parcel of land against the amount of the delinquency penalty.

**547.697 Bond fund separate from district general fund; deposits to bond fund and district general fund; expenditures from bond fund and district general fund.** (1) The district treasurer shall deposit all money arising from the sale of refunding bonds, and sufficient money arising from assessment and levy to meet the next installment of principal and interest on the bonds of the district, in a bond fund separate from its general fund. From the bond fund the treasurer shall pay the principal on bonds as they mature and the interest when the coupons are presented.

(2) Except as otherwise provided by subsection (1) of this section, all money received by the district, including money from the sale of bonds other than refunding bonds and for the construction and acquisition of works, shall be credited to a general fund. The district treasurer shall use the general fund to pay all obligations of the district other than those described by subsection (1) of this section. [1969 c.694 §38; 2001 c.215 §28]

## WITHDRAWAL

**547.755 Part of district annexed to city to be withdrawn from district only by consent of voters.** No part of a drainage district annexed to a city shall be withdrawn from the district, except upon the consent of the voters of that part of the district. The votes shall be counted in the same manner

as in elections for officers of the district. If three-fourths of those voting in that part of the district favor withdrawal from the district the withdrawal is effective, subject to ORS 222.520 (2), ORS 222.528 and 222.560 relating to division of assets and liabilities upon withdrawal from sanitary districts. [Amended by 1963 c.419 §1]

**547.760** [Amended by 1955 c.359 §1; repealed by 1973 c.415 §14]

### PENALTIES

**547.990 Penalties.** Violation of ORS 547.425 is a Class C misdemeanor. [Amended by 2011 c.597 §229]

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# Chapter 548

2017 EDITION

## Provisions Applicable Both to Drainage Districts and to Irrigation Districts

<b>ORGANIZATION; SALE OF LANDS; TRANSFER OF FUNDS</b>		548.370	Cancellation or compromise of assessments by districts refunding indebtedness through federal agencies
548.005	Organization of irrigation, drainage or flood control district by owners of lands subject to assessment by district improvement company or improvement district; assumption of obligations	<b>SECURITIES AND MONEYS DEPOSITED WITH COUNTY TREASURER</b>	
548.010	Sale or disposal of lands	548.400	Deposit of bonds, warrants and other evidence of indebtedness of irrigation and drainage districts being reorganized
548.015	Board of directors to transfer unnecessary funds	548.405	Loss of certificates or receipts issued by county treasurer for securities; surrender of securities by county treasurer
<b>INSURANCE FOR EMPLOYEES</b>		548.410	Surrender of securities to claimant to whom certificate or receipt has not been issued or assigned
548.050	Insurance for district employees	548.415	Surety bond; amount; conditions
<b>DETERMINING LEGALITY OF ORGANIZATION AND PROCEEDINGS</b>		<b>RELEVY OF ERRONEOUS OR VOID ASSESSMENTS</b>	
548.105	Authority of boards to maintain proceedings for judicial determination as to organization of district and other matters; scope of inquiry	548.505	Relevy and reassessment; manner and time
548.110	Nature of proceedings; notice; contest; judgment; appeal; nonprejudicial errors; costs	548.510	Judgment declaring assessments void; reassessment and relevy of similar assessments; time; crediting payments under void assessment
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548.120	Validation of judgments entered in proceedings by directors	548.520	Cancellation or compromise
<b>GOVERNMENT LOANS TO IRRIGATION AND DRAINAGE DISTRICTS</b>		<b>COMPOSITION; BANKRUPTCY; REFUNDING AGREEMENTS</b>	
548.300	Contracts for state loans; purposes for which authorized; amount of loan	548.705	Irrigation or drainage district may file bankruptcy petition; confirmation of proceedings; composition of debts
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548.310	Validation of prior contracts and bonds	548.715	Debt refunding agreements; obtaining consent of unknown or nonconsenting creditors
548.315	Issuance of bonds; funds for payment; charges or assessments; release of land from lien; relief from payment of assessments	<b>REORGANIZATION AND DISSOLUTION</b>	
548.320	Lien on lands; lien docket; priority; sale of land for taxes not to extinguish lien	548.900	Definitions for ORS 548.900 to 548.955
548.325	Charges or assessments; emergency fund	548.905	Petition for dissolution or reorganization; contents; effect of dissolution or reorganization on creditors
548.330	Bonds for refunding indebtedness; validity not affected by irregularities of refunded obligations	548.910	Manner of signing petition; form of petition; withdrawal of signature after filing of petition prohibited
548.335	Consent of holders of outstanding indebtedness; initiation of proceedings to obtain constructive consent; petition	548.915	Determining qualified petition signatures; certificate of county clerk and district secretary
548.340	Contents of petition	548.920	Notice of petition filing; contents; election petition; signature requirements
548.345	Notice; failure of holder to object constitutes consent	548.925	Special election; notice; ballot form
548.350	Hearing; judgment; county treasurer as trustee	548.930	Vote result requirements; filing petition with circuit court if vote favors reorganization or dissolution or if no election petition is filed
548.355	Nature of proceedings; appeal; nonprejudicial errors; costs	548.935	Circuit court proceeding on petition; contents of court order
548.360	Moneys and securities; custody		
548.365	Depository for bonds, warrants; authority of State Treasurer		

## **WATER LAWS**

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<b>548.940</b>	<b>Jurisdiction of parties; service of summons and petition</b>	<b>548.950</b>	<b>Appearance of interested parties; costs and disbursements</b>
<b>548.945</b>	<b>Written assent of Secretary of Interior required before judgment if district has federal contract</b>	<b>548.955</b>	<b>Contents of judgment; filing with county treasurer and assessor, Secretary of State and Water Resources Commission</b>

## **ORGANIZATION; SALE OF LANDS; TRANSFER OF FUNDS**

**548.005 Organization of irrigation, drainage or flood control district by owners of lands subject to assessment by district improvement company or improvement district; assumption of obligations.** Where any lands are subject to assessment by a corporation under the provisions of ORS 554.005 to 554.340, or by a corporation organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, and Acts amendatory thereof, the owners of the lands or any part thereof and the owners of any additional lands adjacent thereto may proceed to organize irrigation districts or drainage districts or flood control districts under the laws of Oregon. Any of such districts when organized may assume any of the valid outstanding liens or obligations of the district improvement company or improvement district and refund the same and issue district bonds therefor.

**548.010 Sale or disposal of lands.** Whenever any drainage or irrigation district has acquired any lands, by gift, purchase, eminent domain or otherwise, for the uses and purposes of the district, and thereafter by reason of a change of its plans or for any other reason determines that all or any part thereof is no longer necessary for the uses or purposes for which it was acquired, the district may sell or dispose of the lands or any part thereof, either at private or public sale. The officers of the district otherwise authorized to execute conveyances have authority to make such conveyance.

**548.015 Board of directors to transfer unnecessary funds.** When the necessity for maintaining any fund of an irrigation or drainage district has ceased to exist and a balance remains in the fund, the governing board of the district shall so declare by proper resolution. The balance shall then forthwith be transferred to the credit of either the operation and maintenance fund or the general fund of the district, as designated in the resolution.

## **INSURANCE FOR EMPLOYEES**

**548.050 Insurance for district employees.** (1) The board of directors of an irrigation district or the board of supervisors of a drainage district may enter into contracts of insurance covering district officers and employees for medical, or any other type of remedial care recognized under state law, surgical, hospital and related services and supplies, life insurance, annuities and other retirement benefits and monthly indemnity for loss of time due to accident or sickness. Contributions for premiums therefor by officers or employees shall only be on a volun-

tary basis. Failure to procure such insurance shall not be construed as negligence or lack of diligence on the part of the board or the members thereof.

(2) The district may agree to pay none, part or all of the premiums on contracts of insurance entered into pursuant to this section.

(3) This section is part of the Irrigation District Law, insofar as it applies to irrigation districts, and part of the Drainage District Act, as defined in ORS 547.060, insofar as it applies to drainage districts.

(4) As used in this section the words "related services" shall include the services of a person duly licensed to practice chiropractic in the State of Oregon. [1959 c.435 §1; 1967 c.281 §1; 1995 c.42 §181]

## **DETERMINING LEGALITY OF ORGANIZATION AND PROCEEDINGS**

**548.105 Authority of boards to maintain proceedings for judicial determination as to organization of district and other matters; scope of inquiry.** (1) The board of directors of an irrigation district organized under ORS chapter 545, or the board of supervisors of a drainage district organized under the Drainage District Act, as defined in ORS 547.060, may by petition commence special proceedings in the circuit court of the county in which the office of the district is located for the purpose of having a judicial examination and judgment of the court as to the regularity and legality of:

(a) The proceedings in connection with the organization of the district.

(b) The proceedings of the board and of the district, providing for and authorizing the issue and sale of bonds of the district, whether bonds have or have not been sold or disposed of.

(c) Any action or proceeding of the county court declaring the organization of the district, or declaring the result of any election therein.

(d) An order of the governing board of the district including or excluding any lands in or from the district, or declaring the result of any election, general or special.

(e) An order of such board levying any assessment, general or special.

(f) An order of such board ordering the issue of any bonds for any purpose, or determining any bond issue, or providing for the same.

(g) The authorization of contract with the United States, and the validity of the contract, whether or not it has been executed, and whether or not bonds are to be deposited with the United States.

(2) All the proceedings of an irrigation district or drainage district may be judicially examined and determined by the court in one special proceeding, or any part thereof may be separately examined and determined upon by the court. [Amended by 1995 c.42 §182; 1999 c.452 §27]

**548.110 Nature of proceedings; notice; contest; judgment; appeal; nonprejudicial errors; costs.** (1) The proceedings under ORS 548.105 shall be in the nature of a proceeding in rem. The practice and procedure therein shall follow the practice and procedure of an action not triable by right to a jury, so far as they are consistent with the determination sought to be obtained, except as otherwise provided in ORS 548.105 to 548.115. The jurisdiction of the irrigation district or drainage district and of all the freeholders, assessment payers and legal voters therein shall be obtained by publication of notice directed to the district, and to "all freeholders, legal voters and assessment payers within the district," without naming them individually. The notice shall be served on all parties in interest by publication for at least once a week for three successive weeks in some newspaper of general circulation published in the county where the proceeding is pending. Jurisdiction shall be complete within 10 days after full publication.

(2) Any person interested may at any time before the expiration of the 10 days appear and contest the validity of the proceeding, or of any of the acts or things therein enumerated. The proceedings shall be speedily tried and judgment rendered declaring the matter so contested to be either valid or invalid. Any order or judgment in the course of the proceeding may be made and rendered by the judge of the court in vacation. For the purpose of any such order or judgment, the court shall be deemed at all times to be in session, and the act of the judge in making such order or judgment shall be the act of the court.

(3) Any party may appeal to the Court of Appeals at any time within 30 days after rendition of the judgment. The appeal must be heard and determined within three months from the time of taking the appeal.

(4) The court, in inquiring into the regularity, legality or correctness of any of the proceedings, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to the court proceedings, and may approve the proceedings in part and disapprove and declare invalid other or subsequent proceedings in part. The costs of the court proceedings may be allowed and apportioned between the par-

ties in the discretion of the court. [Amended by 1979 c.284 §169; 2003 c.576 §257]

**548.115 Elector's right to maintain proceedings; procedure; exclusiveness of remedy.** (1) Any qualified elector of an irrigation district or drainage district, within 30 days after the entry of any order or the performance of any act mentioned in ORS 548.105, for which a contest is by that section provided, may bring a like proceeding in the circuit court of the county where the lands embraced within such district, or the majority thereof, are situated, to determine the validity of such order or act. In such proceedings the board of directors shall be made parties defendant.

(2) Service of summons shall be made on the members of the board personally if within the county where the district, or any part thereof is situated. As to any directors not within the county, service may be had by publication of summons for a like time, and in like manner, as is provided by ORS 548.110. Service shall be deemed complete within 10 days from the date of personal service, or within 10 days from the date of completion of publication, as the case may be.

(3) The proceedings shall be tried and determined in the same manner as proceedings brought by the irrigation district or drainage district itself.

(4) No contest of any proceeding, matter or thing provided by ORS 548.105 to be had or done by the board of directors or supervisors or by the district, or by the county court, or by any qualified elector of the district, shall be had or maintained at any time or in any matter except as provided in ORS 548.105 to 548.115. [Amended by 1999 c.452 §28]

**548.120 Validation of judgments entered in proceedings by directors.** In all cases where the board of directors of any irrigation district or the board of supervisors of any drainage district has instituted proceedings for the purpose of having an adjudication of the court as to the regularity and legality of the proceedings in connection with any of the matters specified in ORS 548.105, and where notice has been published directed to the parties specified by ORS 548.110, for the length of time specified by that section, and the full time provided by that section has elapsed after publication before any judgment has been entered therein, all such judgments so rendered by the courts hereby are validated and declared to be effective and sufficient for all purposes, notwithstanding any other defects in the proceedings and notice upon which such judgments are based. [Amended by 2003 c.576 §514]

**548.205** [Repealed by 1989 c.182 §49]

**548.210** [Repealed by 1989 c.182 §49]

**548.215** [Repealed by 1989 c.182 §49]

**548.220** [Repealed by 1989 c.182 §49]

**548.225** [Repealed by 1989 c.182 §49]

**548.230** [Amended by 1967 c.359 §695; repealed by 1989 c.182 §49]

**548.235** [Repealed by 1989 c.182 §49]

### GOVERNMENT LOANS TO IRRIGATION AND DRAINAGE DISTRICTS

**548.300 Contracts for state loans; purposes for which authorized; amount of loan.** (1) The board of supervisors of any drainage district or the board of directors of any irrigation district may, whenever it is determined by such board that it is for the best interests of the district, enter into a contract with any governmental agency of the State of Oregon for a loan:

(a) For the refunding of any or all of its outstanding indebtedness;

(b) For the refunding of any state, county and municipal ad valorem taxes or special assessments levied by such district; and

(c) For the financing of any improvement or supplemental works which may be needed to reclaim lands in the district or for maintenance or operation, and for the payment or repayment thereof, upon such terms or conditions as may be agreed upon in the contract.

(2) In no case shall the total of any loan made by any governmental agency exceed in the aggregate the total amount of the outstanding indebtedness of such district so refunded, but this limitation shall not apply to any loan or any part of any loan which may be made by such governmental agency for any purpose herein provided other than refunding such outstanding indebtedness. [1983 c.557 §11]

**548.305 Contracts for federal loans; purposes for which authorized; amount of loan.** (1) The board of supervisors of any drainage district or the board of directors of any irrigation district may, whenever it is determined by such board that it is for the best interests of the district, enter into a contract with any governmental agency of the United States, for a loan:

(a) For the refunding of any or all of its outstanding indebtedness;

(b) For the refunding of any state, county and municipal ad valorem taxes or special assessments levied by such district; and

(c) For the financing of any improvement or supplemental works which may be needed to reclaim lands in the district or for maintenance or operation, and for the payment or repayment thereof, upon such terms or con-

ditions as may be agreed upon in the contract.

(2) In no case shall the total of any loan made by such governmental agency exceed in the aggregate the total amount of the outstanding indebtedness of such district so refunded, but this limitation shall not apply to any loan or any part of any loan which may be made by such governmental agency for any purpose herein provided other than refunding such outstanding indebtedness.

**548.310 Validation of prior contracts and bonds.** All contracts entered into before November 15, 1935, by any drainage district or irrigation district with any governmental agency of the United States, and any bonds issued before or after November 15, 1935, pursuant to such contract, for any of the purposes provided by ORS 548.305 to 548.325, which comply with the provisions of ORS 548.305 and are otherwise regular and duly made and issued according to law, are declared valid, notwithstanding that the total amount of any such loan so provided to be made by the governmental agency exceeds in the aggregate the total amount of the outstanding indebtedness of such district in any case where all or any part of such loan is for purposes other than refunding the outstanding indebtedness of such district.

**548.315 Issuance of bonds; funds for payment; charges or assessments; release of land from lien; relief from payment of assessments.** For the purpose of carrying into effect provisions contained in any contract so to be executed, the board of such district may, with the approval of the electors of the district, issue bonds in any denomination, bearing interest from date at a rate determined by the board, and to mature in not more than 40 years. The bonds shall be general obligations of the district and shall be paid by the revenue derived from the annual charges or assessments of the district, which shall be made in accordance with the terms of the contract. All of the owners of the real property within the district shall be liable to be charged or assessed for such payments; provided, however, that the contract may contain a provision permitting the release of any land in the district from the lien to secure the payment of such bonds, or relieving any lands in the district from any obligation to pay any assessments thereafter levied for the purpose of paying the bonds or the interest accruing thereon, by payment to the district of an amount provided in the contract. [Amended by 1981 c.94 §48; 1991 c.459 §426]

**548.320 Lien on lands; lien docket; priority; sale of land for taxes not to extinguish lien.** The contract may provide for a lien docket which shall be furnished by the

district to the county clerk of each county in which lands of the district are situated, and in which shall be set forth a description of the lands within the district and liable under such bonds, described under the present individual ownership by metes and bounds or by calls or by reference to recorded deeds, together with the total amount of refunding bonds charged against each parcel of land, the amount of annual payments thereof, the date of such payment and the rate of interest. This charge shall remain a lien on such tract or parcel of land in favor of the district and shall have priority over all other liens and encumbrances except the lien of state, county and municipal taxes. If the contract does not provide for a lien docket nothing in this section shall be construed to prevent an irrigation or drainage district from providing a lien docket as prescribed by law. In case any lands located within an irrigation or drainage district are sold for taxes such sale shall not operate to extinguish any lien appearing on the lien docket and payable at a future time.

**548.325 Charges or assessments; emergency fund.** In addition to the annual charges or assessments provided for in ORS 548.315, and in addition to the charges or assessments authorized by law for the maintenance and operation of drainage and irrigation districts, such contract may provide that the board shall impose an annual charge not to exceed 50 cents per acre upon each acre in the district. All moneys received from the charge shall be placed by the treasurer of the district in a fund to be designated as the "emergency fund." The emergency fund shall be used for supplementing the bond fund in case of deficiency due to accident, delinquency or other contingencies. The fund shall be disbursed by the treasurer upon the order of the board. [Amended by 1989 c.182 §32; 1991 c.459 §426a; 1997 c.170 §54]

**548.330 Bonds for refunding indebtedness; validity not affected by irregularities of refunded obligations.** All bonds of any irrigation or drainage district authorized or issued by the district in the manner provided by ORS 548.305 to 548.325, for the purpose of refunding any outstanding bonds or warrants of the district in accordance with the terms and provisions of a contract therefor between the district and any governmental agency of the United States shall constitute legal and binding obligations of the district, notwithstanding any irregularities or defects in the authorization of or issuance of any of the bonds or warrants to be refunded. [Amended by 1989 c.182 §33]

**548.335 Consent of holders of outstanding indebtedness; initiation of proceedings to obtain constructive consent; petition.** When any irrigation or drainage district has adopted a plan for refunding and compromising any or all of its outstanding indebtedness, and pursuant to ORS 548.305 to 548.325 has entered into a contract with any governmental agency for a loan for the purpose of carrying out such plan, and the board of directors or board of supervisors for the purpose of carrying into effect the provisions contained in the contract have authorized the issuance of bonds of the district pursuant to ORS 548.315, and such plan of refinancing and compromise has been accepted in writing by the holders of more than 90 percent of such outstanding indebtedness to be refunded and compromised, such irrigation or drainage district may commence and prosecute a proceeding in rem for the purpose of obtaining constructive consent, to the plan, of the unknown holders of the evidences of the indebtedness to be refunded and compromised, and of the known holders of such evidences of indebtedness who have not so given their consent in writing. The proceeding shall be commenced in the circuit court of the county in which the office of the district is located, by filing a petition verified by the oath of the president or secretary of the district.

**548.340 Contents of petition.** The petition shall set forth the plan for refunding and compromising the indebtedness and shall further recite what percentage in amount of the holders of the evidences of indebtedness to be refunded or retired have filed their written consent to the proposed plan, which percentage shall not be less than 90 percent, and shall further set forth what steps have been taken to obtain the consent of all non-consenting holders of the evidences of indebtedness. The petition shall also state the name and place of residence of all of the holders of the evidences of indebtedness who are known to the district, and shall show that diligent efforts have been made to ascertain the names and residences of all the holders.

**548.345 Notice; failure of holder to object constitutes consent.** (1) Upon presentation of the petition to the judge of the court, the judge shall, if it appears that diligent efforts have been made by the irrigation or drainage district to ascertain the names and places of residence of all the holders of the evidences of indebtedness so to be refunded and compromised, authorize the district to publish, and it shall publish for at least four consecutive weeks in three newspapers published within the state, to be designated by the court, one of which papers

shall be published in the county in which the office of the board of directors or board of supervisors is situated, a notice specifying the particular indebtedness which it is proposed to refund and compromise, together with the plan which has been adopted by the district for the refunding and compromising; also, a general description of the refunding bonds, if any, which it is proposed to issue to the holders of the indebtedness. The notice shall require all holders of the evidences of indebtedness so to be refunded or compromised to file in the matter of the petition in the circuit court their written dissent from or objection to the proposed plan of refunding and compromise. The notice shall also state that any holders who fail to file their dissent and protest to the plan shall be deemed to have consented thereto.

(2) The district shall also cause the notice to be served in the manner provided by law for service of summons in civil actions upon all the holders whose names and places of residence are known to the district and who reside within Oregon. The district shall also deposit a copy of the notice in the United States mail addressed to each of the known holders who reside without the state, with postage prepaid.

(3) Dissent in writing must be filed in the court and cause within 90 days from the date of the first publication of the notice; or, in the case of holders whose names and places of residence are known to the district and who reside within the state, within 90 days from the date of service of the notice upon them; or, in the case of holders whose names and places of residence are known to the district and who reside without the state, within 90 days from the date of mailing the notice.

(4) After the expiration of said period of 90 days the holders so failing to file their objection and protest with the court shall be deemed to have consented to the refunding and compromise of the indebtedness under the terms set forth in the notice, and such failure shall be equivalent to the offer in writing signed by the known consenting holders. [Amended by 1989 c.182 §34]

**548.350 Hearing; judgment; county treasurer as trustee.** (1) After the expiration of 90 days from the date of the first publication of the notice and the service and mailing thereof, as set forth in ORS 548.345, the district shall file in the proceeding in the circuit court its verified return of its acts made under the order of the court, attaching affidavits of the publication of the notice in three newspapers, and proof of service of the notice upon the holders of the evidences of indebtedness whose names and places of residence are known to the district and who

reside within the state, and of the mailing thereof to such known holders residing without the state.

(2) Thereupon the court shall hear the cause and shall enter a judgment providing that all the holders of the evidences of indebtedness to be refunded and compromised by the plan or proceeding of the district, who within 90 days after the date of the first publication of the notice and the serving and mailing thereof did not file in the court their written dissent and objections to the proceedings, have consented that their evidences of indebtedness be refunded and compromised under the proposed plan.

(3) In the judgment the court shall direct the officers of the district to deposit with the county treasurer of the county in which the district is headquartered, as trustee for the persons entitled thereto, the cash or refunding bonds which under the plan of refunding and compromise belong to the holders of the evidences of indebtedness whose consent was so obtained by the court proceedings. The judgment shall further provide that upon the payment of said money or bonds to the county treasurer as trustee, the evidences of indebtedness so held by the holders shall be deemed paid and no longer shall be an obligation of the district; and that upon the surrender to the county treasurer of the evidences of indebtedness, together with any unpaid interest coupons belonging to the same, the county treasurer shall pay on demand to the holders the money or bonds so deposited with the county treasurer as trustee, and shall mark the evidences of indebtedness canceled and deliver them to the district. All holders of the evidences of indebtedness to be refunded and compromised shall be deemed to have notice of all steps and proceedings had. [Amended by 1989 c.182 §35; 2003 c.576 §515]

**548.355 Nature of proceedings; appeal; nonprejudicial errors; costs.** The procedure in the circuit court under the provisions of ORS 548.340 to 548.350 shall be in the nature of an action in rem not triable by right to a jury. Any holders of any evidences of indebtedness affected by any such court procedure provided for in those sections, or any other interested party, may appeal to the Court of Appeals at any time within 30 days after the rendition of the judgment of the circuit court. The court inquiring into the regularity, legality or correctness of any of such proceedings shall disregard any error, irregularity or omission which does not affect the substantial rights of the parties, and may approve the proceedings in part and disapprove the remainder. Costs in the proceeding may be allowed and apportioned between the parties in the discretion of the court. [Amended by 1979 c.284 §170]

**548.360 Moneys and securities; custody.** All moneys and securities received under ORS 548.350 may be deposited with the State Treasurer for safekeeping. [Amended by 1989 c.182 §36]

**548.365 Depositary for bonds, warrants; authority of State Treasurer.** Whenever any governmental agency of the United States has authorized a loan to or for the benefit of any irrigation or drainage district in Oregon for the purpose of refinancing the outstanding indebtedness of the district, the State Treasurer may act as depositary for the bondholders and other creditors of the district and as such may do all things that may be conferred upon the State Treasurer by the bondholders and other creditors of such district or their authorized representatives, in connection with the delivery and transfer of title of deposited bonds, warrants and other evidences of indebtedness. All acts of the State Reclamation Commission had before March 4, 1935, in connection with any such loans authorized before that date, are ratified and confirmed. [Amended by 1955 c.707 §67; 1989 c.182 §37]

**548.370 Cancellation or compromise of assessments by districts refunding indebtedness through federal agencies.** The board of supervisors of any drainage district or the board of directors of any irrigation district may cancel or compromise any special assessments assessed and levied by such board on lands within the district if the district is refunding its outstanding indebtedness through any governmental agency of the United States. When such assessments are canceled or compromised the board may make appropriate notation of same upon the proper records. [Amended by 1989 c.182 §38; 1997 c.170 §55]

### **SECURITIES AND MONEYS DEPOSITED WITH COUNTY TREASURER**

**548.400 Deposit of bonds, warrants and other evidence of indebtedness of irrigation and drainage districts being reorganized.** (1) The county treasurer of the county in which the district is headquartered may accept deposits of bonds, warrants or other evidences of indebtedness of irrigation and drainage districts under the process of reorganization, pursuant to the provisions of ORS 545.629 to 545.639, or as may otherwise be provided by law.

(2) The county treasurer shall deposit such bonds, warrants or other evidences of indebtedness with the State Treasurer, to be held by the State Treasurer in safekeeping. [Formerly 544.040; 1989 c.182 §39]

**548.405 Loss of certificates or receipts issued by county treasurer for securities; surrender of securities by county treasurer.** Whenever one claiming to be a lawful owner of a certificate of deposit or receipt issued by the county treasurer, covering securities issued by an irrigation or drainage district, satisfies the county treasurer that such certificate of deposit or receipt has been lost, stolen or destroyed and that the claimant is the owner thereof, the county treasurer may surrender the securities evidenced by such certificate of deposit or receipt, or deliver any securities or moneys on deposit with the county treasurer received in payment for the securities evidenced by such certificate of deposit or receipt to the claimant, upon filing a surety bond as provided in ORS 548.415. [Amended by 1989 c.182 §40]

**548.410 Surrender of securities to claimant to whom certificate or receipt has not been issued or assigned.** Whenever one in possession of a certificate of deposit or receipt issued by the county treasurer as evidence of the deposit of securities issued by an irrigation or drainage district, who is neither the one to whom such certificate of deposit or receipt was issued nor one to whom it has been properly assigned, but who claims to be the owner of such certificate of deposit or receipt, shall satisfy the county treasurer that the claimant is entitled to receive securities evidenced by such certificate or receipt, or receive moneys or other securities deposited with the county treasurer in refunding the securities evidenced by such certificate or receipt, the county treasurer may surrender such securities or pay such moneys or deliver such other securities so deposited with the county treasurer to the claimant upon surrendering the certificate of deposit or receipt and filing a bond as provided in ORS 548.415. [Amended by 1989 c.182 §41]

**548.415 Surety bond; amount; conditions.** The surety bond to be filed under ORS 548.405 or 548.410 shall be for double the amount of the face value of the securities described in such certificate of deposit or receipt, if the securities are to be surrendered, or double the amount the claimant is to receive from moneys or securities deposited with the county treasurer, with two or more sureties, qualified and who must justify as in the case of sureties for bail; provided that surety bonds of companies licensed to transact surety business in Oregon may be accepted for the face amount of the securities if the securities are to be returned, or the face amount of any moneys or securities to be paid or delivered by the county treasurer to the claimant. Every such surety bond shall be conditioned upon indemnifying the county treasurer, and the employees of the



county treasurer making the payment, and all rightful owners of the securities, against any loss or expenses, including interest or other damage or liability, resulting from such payment or delivery. [Amended by 1989 c.182 §42]

### **RELEVY OF ERRONEOUS OR VOID ASSESSMENTS**

**548.505 Relevy and reassessment; manner and time.** If any drainage or irrigation district assessment levied on any property liable thereto is prevented from being collected for any year by reason of any erroneous proceeding, or if such levy is adjudged void for want of form or manner of procedure, or otherwise, the same may be collected, relisted, reassessed and relevied in the manner and at the times provided for the collection, relisting and reassessment of taxes by the provisions of ORS 311.120.

**548.510 Judgment declaring assessments void; reassessment and relevy of similar assessments; time; crediting payments under void assessment.** If any such levy of assessment is declared void by a court of competent jurisdiction, then all similar assessments levied in the same or other years by the drainage or irrigation district which under the decision of the court are also void, may be reassessed, relisted and relevied against the property affected, in the manner provided by law and in conformity with such judgment, within five years from the date of the rendition of the judgment of the court declaring such assessment void. In the case of a relisting or relevying of such drainage or irrigation district assessment on any property affected thereby, proper credit in the collection of the same shall be given to all owners of any such property for all payments theretofore made by them on the void assessments. [Amended by 2003 c.576 §516]

**548.515 Manner of relevy and reassessment; officers authorized.** The relevy and reassessment of drainage and irrigation district assessments provided for by law shall be made in the same manner, and by the same officers who, at the time the new listing or levy is made, are authorized by law to list property and compute, levy and assess taxes or assessments against property in the drainage or irrigation district.

**548.520 Cancellation or compromise.** The provisions of ORS 548.370 relating to the authority of drainage and irrigation districts to cancel or compromise any special assessment shall apply to any relevy or reassessment by a drainage or irrigation district which is provided by law.

**548.605** [Repealed by 1969 c.595 §17]

**548.610** [Repealed by 1997 c.170 §48]

**548.615** [Repealed by 1997 c.170 §48]

**548.620** [Amended by 1981 c.897 §62; 1995 c.696 §28; repealed by 1997 c.170 §48]

**548.625** [Repealed by 1997 c.170 §48]

**548.630** [Repealed by 1997 c.170 §48]

**548.635** [Repealed by 1997 c.170 §48]

**548.640** [Repealed by 1997 c.170 §48]

**548.645** [Repealed by 1997 c.170 §48]

**548.650** [Repealed by 1997 c.170 §48]

**548.655** [Repealed by 1997 c.170 §48]

**548.660** [Amended by 1981 c.897 §63; 1995 c.696 §29; repealed by 1997 c.170 §48]

**548.665** [Repealed by 1997 c.170 §48]

**548.670** [Repealed by 1997 c.170 §48]

**548.675** [Repealed by 1997 c.170 §48]

### **COMPOSITION; BANKRUPTCY; REFUNDING AGREEMENTS**

**548.705 Irrigation or drainage district may file bankruptcy petition; confirmation of proceedings; composition of debts.** At any time subsequent to default in the payment of principal or interest upon the bonded or warrant indebtedness of any irrigation or drainage district of this state, the board of directors or board of supervisors may cause a petition to be filed in the Federal District Court pursuant to the provisions of the Federal Bankruptcy Act. The consent of the state is given to any proceedings instituted or attempted before February 16, 1939, by any such district under the Federal Bankruptcy Act. The state also authorizes and confirms any proceedings by any such district to effect a plan of composition or of readjustment of its debts in accordance with the provisions and terms of that Act, and authorizes the consummation of any such proceedings.

**548.710 Bonds of district; use and delivery to creditors.** Whenever any irrigation or drainage district files its petition in bankruptcy pursuant to the provisions of the Act of Congress approved May 24, 1934, authorizing bankruptcy proceedings by municipalities and other political subdivisions of any state, the district may, for the purpose of carrying out any plan of readjustment of its indebtedness which has been submitted and approved in the bankruptcy proceeding, use and deliver to its creditors in such bankruptcy proceeding any of its bonds authorized or issued pursuant to the provisions of ORS 548.305 to 548.325, and which bonds are not required for the purpose of carrying into effect the provisions of the contract with the governmental agency of the United States for which they primarily were authorized.

**548.715 Debt refunding agreements; obtaining consent of unknown or non-consenting creditors.** Whenever any irrigation or drainage district engaged in the refunding of its indebtedness has entered

into a contract for such purposes with 80 percent or more of the owners or holders of its bonds, warrants or other evidences of indebtedness, such district may proceed to obtain the constructive consent of the unknown or nonconsenting owners or holders of such evidences of indebtedness to such contract, as provided by ORS 545.651 to 545.663.

**548.810** [Formerly 544.030; repealed by 1989 c.182 §49]

## REORGANIZATION AND DISSOLUTION

**548.900 Definitions for ORS 548.900 to 548.955.** As used in ORS 548.900 to 548.955, except as otherwise expressly provided:

(1) "District" means an irrigation district organized under ORS chapter 545 or a drainage district organized under ORS chapter 547.

(2) "District board" means the board of directors of an irrigation district, or the board of supervisors of a drainage district. [1973 c.415 §1]

**548.905 Petition for dissolution or reorganization; contents; effect of dissolution or reorganization on creditors.** (1) A majority of the qualified electors and landowners of a district, representing at least one-half of the acres of land assessed by the district, may by petition propose a plan for the dissolution or reorganization of the district.

(2) The petition shall state:

(a) That the petition is filed under ORS 548.900 to 548.955.

(b) The name of the district.

(c) The nature, terms and conditions of the dissolution or reorganization plan.

(d) The estimated cost of the dissolution or reorganization.

(e) A description of the assets of the district.

(f) A description of all outstanding indebtedness, including bonds and coupons and the holders thereof, so far as known, and the provisions to be made for payment of nonassenting holders.

(3) No dissolution or reorganization or any term or condition thereof shall impair the rights of any creditor of a district and each creditor may enforce the rights of the creditor in the same manner and to the same extent as if the change, term or condition had not been made. [1973 c.415 §2]

**548.910 Manner of signing petition; form of petition; withdrawal of signature after filing of petition prohibited.** (1) Each person signing a petition shall add after the signature of the person the date of signing

and place of residence, giving street and number or a designation sufficient to enable the place of residence to be readily ascertained, and the number of acres of land owned by the signer. The name of the county whose assessment roll is used for the purpose of determining the right of the signer to vote shall be stated in the body of the petition or indicated opposite the signature of the signer. If the signer is a legal representative of the owner, the signature of the signer shall be accompanied by a certified copy of the authority of the signer to sign as a legal representative.

(2) After a petition has been offered for filing, a person may not withdraw the name of the person therefrom.

(3) A petition may designate not more than three persons as chief petitioners, setting forth their names and mailing addresses. A petition may consist of a single instrument or separate counterparts. [1973 c.415 §3]

**548.915 Determining qualified petition signatures; certificate of county clerk and district secretary.** (1) A petition shall not be accepted for filing unless the signatures thereon have been secured within six months of the date on which the first signature on the petition was affixed. Petitions shall be filed with the secretary of the district board. It is not necessary to offer all counterparts of a petition for filing at the same time, but all counterparts when certified as provided by subsection (3) of this section shall be filed at the same time.

(2) Within 10 days after the date a petition is offered for filing, the county clerk and the district secretary shall examine the petition and determine whether it is signed by the requisite number of qualified signers. If the requisite number of qualified signers have signed the petition the district secretary shall file the petition. If the requisite number have not signed, the secretary shall so notify the chief petitioners and may return the petition to the petitioners.

(3) A petition shall not be filed unless the certificate of the county clerk and the district secretary is attached thereto certifying that they have compared the signatures of the signers with the appropriate records, that they have ascertained therefrom the number of qualified signers appearing on the petition, and that the petition is signed by the requisite number of qualified signers. [1973 c.415 §4]

**548.920 Notice of petition filing; contents; election petition; signature requirements.** (1) If the petition is accepted and filed by the district secretary, the secretary shall, within 30 days thereafter, cause a notice of the filing to be published in one or more newspapers of general circulation

within the district or, if there is no such newspaper, in a newspaper of general circulation in each county in which the district is located. The secretary may also cause the notice to be published by radio and television stations broadcasting in the district as provided by ORS 193.310 and 193.320.

(2) The published notice shall state:

(a) That a petition proposing a plan for the dissolution or reorganization of the district, as the case may be, has been filed with the district secretary.

(b) That a copy of the petition is available at a reasonable fee for each person who desires a copy.

(c) That unless a petition signed by not less than 10 percent of the qualified electors and landowners of the district requesting that an election be called by the district board is filed with the district secretary within 30 days of the date of the publication of the notice, the district board will file its petition in circuit court as provided by ORS 548.930 (2).

(3) A petition requesting an election must be signed in the manner provided by ORS 548.915 (1) and shall be subject to the examination and requirements provided by ORS 548.915 (2) and (3). [1973 c.415 §§5,6]

**548.925 Special election; notice; ballot form.** (1) Within 10 days after the filing of a petition that meets the requirements of ORS 548.920 (3) and 548.920 (2)(c), the district board shall call a special election to be held not less than 30 or more than 60 days after date the petition is filed.

(2) The board shall cause notice of the election to be published once a week for three successive weeks, being three publications in all, in one or more newspapers meeting the requirements of ORS 548.920 (3). In addition, notice may be published by radio and television stations broadcasting in the district as provided by ORS 193.310 and 193.320.

(3) The notice shall state the date of the election, and the fact that there will be submitted to the voters a proposal to dissolve or reorganize the district, as the case may be.

(4) The election shall be held and the results determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers in irrigation districts. At the election, the ballot shall contain the words, "dissolution (or reorganization, as the case may be) of the district \_\_\_\_ Yes," or "Dissolution (or reorganization) of the district \_\_\_\_ No," or words equivalent thereto. [1973 c.415 §7]

**548.930 Vote result requirements; filing petition with circuit court if vote favors reorganization or dissolution or if no election petition is filed.** (1) Upon canvass of the votes, if it is found and declared by the district board that a majority of the qualified electors and landowners of the district, representing at least one-half of the acres of land assessed by the district, voted against the dissolution or reorganization of the district, the petition for dissolution or reorganization shall be denied and no further action shall be taken upon it. However, if it is found and declared that the majority voted for the dissolution or reorganization of the district, the district board shall, within 60 days after the date of the election, file in the circuit court of the county in which the registered office of the district is located, a petition requesting the court to examine and determine the regularity and legality and correctness of the proceedings and to determine and adjudicate the rights and liabilities of all interested parties in a manner which is equitable, reasonable and in the best interests of the parties. There shall be attached to and made a part of the district board petition a copy of the petition for dissolution or reorganization, as the case may be, of the electors and landowners as filed with the district secretary.

(2) If a petition for election is not filed as provided by this section within 30 days after the date of publication of notice as provided by ORS 548.920 (1) and (2), the district board shall file its petition in the circuit court within 90 days after the date notice is published. [1973 c.415 §8]

**548.935 Circuit court proceeding on petition; contents of court order.** Proceedings in the circuit court upon the petition shall be in the nature of a proceeding in rem and shall be conducted as an action not triable by right to a jury and any judgment or final order of the circuit court shall be subject to appeal in the same manner as other cases in equity. The court may appoint masters or referees as it considers desirable and shall have complete jurisdiction to approve, disapprove, amend or change the plan proposed or to adopt any amendments, changes or other plans proposed by any interested party which the court finds to be equitable and reasonable to protect the rights of any party, or may direct that the district shall continue in existence and operation without dissolution or reorganization. The judgment may include provisions for sale, transfer or conveyance of all or part of the assets of the district to corporations, other districts, municipal corporations or governmental bodies or agencies then in existence, or to be organized in accordance with the terms of the judgment, which will

continue to furnish some or all of the services furnished by the district. As a condition of such sale, transfer or conveyance the court may require such transferee or transferees to assume part or all of the indebtedness of the district. The court may determine the validity of any sales or assessments, the amount of any assessments due upon the various parcels and lots of real estate within the district, the amounts of any assessments theretofore paid upon such parcels and lots and may determine and adjust the liabilities of all parties. The court may adjudicate any water rights of the district and the lands therein and may direct the sale of any assets of the district, either in one lot or in parcels, at public or private sale, as the court finds best. The judgment shall make provision for the payment of all indebtedness of the district. [1973 c.415 §9; 1979 c.284 §172]

**548.940 Jurisdiction of parties; service of summons and petition.** (1) Jurisdiction of all interested parties may be had by the publication of summons in the manner provided by ORCP 7. Copies of the summons and the petition of the district shall be mailed to each qualified elector and landowner at the mailing address as shown by the records of the county clerk, the county tax collector and the county assessor, and to all known creditors of the district.

(2) The Water Resources Commission shall be served with a copy of the summons

and petition. [1973 c.415 §1; 1979 c.284 §172; 1989 c.182 §43]

**548.945 Written assent of Secretary of Interior required before judgment if district has federal contract.** If a contract authorized by law has been made between the district and the United States for the construction, operation or maintenance of necessary works or for a water supply, a judgment may not be entered by the court until written assent to the judgment by the Secretary of the Interior has been filed with the court. [1973 c.415 §11; 2003 c.576 §517]

**548.950 Appearance of interested parties; costs and disbursements.** Any interested party may appear in the proceedings. Costs and disbursements may be allowed and divided between the parties or taxed to the losing party or parties in the discretion of the court. [1973 c.415 §12]

**548.955 Contents of judgment; filing with county treasurer and assessor, Secretary of State and Water Resources Commission.** The judgment of the court shall order the clerk of the court to file certified copies of the judgment with the county treasurer and the county assessor of each county in which any property located within or assessed by the district is located, and with the Secretary of State and the Water Resources Commission. [1973 c.415 §13; 2003 c.576 §518]

# Chapter 551

2017 EDITION

## Diking Districts

551.010	Use of “lands” in chapter; railroads subject to taxation; duties of surveyor and engineer	551.100	Superintendent; compensation; powers and duties; estimate of maintenance costs as basis for annual tax levy
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551.050	Hearing; postponement; decision of court	551.140	Realignment of dikes by landowner
551.060	Apportionment of cost of dikes and dams	551.150	Vacation of right of way; reversion to original owner
551.070	Advertisement for bids; contracts; bond; personal subscriptions; modification of plan	551.160	County authority as to dikes and dams
551.080	Application for payment of assessments in installments	551.170	Appeals from county court
551.090	Meetings of landowners; procedure; selection of advisory board and superintendent	551.180	Dissolution conditions and procedure



**551.010 Use of "lands" in chapter; railroads subject to taxation; duties of surveyor and engineer.** (1) When the term "lands" is used in this chapter in reference to taxation, it shall not be held to include improvements thereon; but the roadbed of railway lines within diking districts shall be subject to taxation for diking purposes.

(2) For purposes of this chapter, duties prescribed for the county surveyor may also be performed by the county engineer if the county employs a registered professional engineer. [Amended by 1965 c.286 §1]

**551.020 Petition for formation of diking district; bond.** One-half or more of the owners of lands which may be conveniently embraced in one diking district and which are subject to overflow by tidewaters or freshets, and who represent one-half or more of the area of the lands embraced within the proposed diking district, may present a petition to the county court of the county in which the lands are situated, reciting therein that it is desired to form a diking district for the purpose of improving by diking or damming the lands contained therein, which are subject to overflow by tidewater or by freshets, as the case may be, and further giving by legal subdivisions, or by metes and bounds, the description of such lands as are desired to be included in the district, and stating that the petitioners are the owners of one-half or more of the acreage to be embraced in the district. If, upon consideration of the petition, the county court finds the statements therein are substantially correct, the court shall require the petitioners to give a bond sufficient to cover the preliminary expenses of the proceedings.

**551.030 Publication of petition; order to show cause; viewers to investigate proposed works.** (1) The county court or board of county commissioners shall then have the petition published in a newspaper of general circulation in the county in which the district is headquartered once each week for four consecutive weeks, together with an order citing all interested parties to appear before the court on a given date, after the time of publication of the notice has expired, and show cause why the petition should not be granted.

(2) The court shall appoint three disinterested viewers, nonresidents of the proposed district, together with the county surveyor, to view out the proposed dikes and dams, along the most practical route to accomplish the object desired, at the least possible cost and expense. [Amended by 1989 c.182 §44]

**551.040 Duties of surveyors and viewers.** The routine of procedure under this chapter shall be as far as practicable the

same as prescribed by the road law of the state for survey, location and establishment of county roads. The surveyors and viewers appointed shall meet as prescribed by the county court. They shall trace upon the ground the line of the dikes and dams necessary, and shall keep an accurate record of the magnetic bearings and the distances upon the same. They shall designate the width of the right of way through which the dikes and dams shall pass, which right of way, if the petition is granted, shall be the property of the district in so far as is necessary for the purpose of building and maintaining the works. The surveyors and viewers shall also define the boundaries of the district, and make an accurate list, by legal subdivision, of the lands embraced therein, and the names of the owners thereof. They shall further make plans for, and estimate the cost of, the proposed dikes and dams, and shall file with the county clerk, at least one week before the day set for a hearing, a complete report of their works. Their report shall be open to public inspection.

**551.050 Hearing; postponement; decision of court.** At the time advertised for the hearing of interested parties, the court may postpone the hearing as may be necessary in order to allow the viewers more time in which to report, or for other good cause. If, upon the final hearing, the county court, from the report of the viewers and the testimony of interested persons, believes that the benefits to be derived from forming a diking district are not sufficiently great to justify the expenditure which will be incurred, the petition and report shall be dismissed at the cost of the petitioners. If the court believes that the proposed improvement will be for the general public good, and that the increase in the taxable value of the land will be greater than the cost, or that destruction of or damage to property equal to the cost will be prevented, the petition shall be granted and the district formed, a number given by which it shall be designated in future proceedings, the report of the viewers adopted and incorporated in the court records, and the cost of the preliminary work assessed upon the district.

**551.060 Apportionment of cost of dikes and dams.** After the petition has been granted and the proceedings had as specified in ORS 551.050, the court shall apportion the estimated cost of the dikes and dams among the landowners of the proposed district, in proportion to the valuation of the lands therein, according to the estimated value placed upon the respective tracts by the viewers. The cost thus apportioned shall be a tax upon the land and shall be placed upon the assessment roll of the county for the

current year. Such taxes for diking purposes shall have the same legal effect and be collected in a like manner as other state and county taxes upon the assessment roll. [Amended by 2001 c.497 §1]

**551.070 Advertisement for bids; contracts; bond; personal subscriptions; modification of plan.** When the tax has been collected or the application filed as provided in ORS 551.080, the county court shall advertise for bids on the proposed work, either as a whole or in parts, as may be deemed most economical. The advertisement for bids shall be published in the official county paper once each week for two successive weeks previous to letting the contracts. The contracts shall be drawn in such terms as will insure the district against loss, and a bond required of the contractor such as will insure the completion of the work in case of failure to comply with the agreement. No contract shall be awarded which calls for an expenditure of a sum of money greater than the tax levied for the purpose; provided, that the difference may be made up by personal subscriptions; and provided also, the court may modify the plan so as to bring the cost of work within the tax levy, if such modification can be made without material detriment to the improvements.

**551.080 Application for payment of assessments in installments.** After the assessments have been made, the owner of any property assessed for such improvement in a sum not less than \$50 may, at any time within 10 days after the cost of such diking district has been apportioned, file with the clerk of the county court a written application to pay the assessment in installments. The application shall state that the applicant waives all irregularities or defects, jurisdictional or otherwise, in the proceedings to create the diking district, and in the assessment and apportionment of costs. The application shall contain a provision that the applicant agrees to pay the assessment in five annual installments with interest at the rate of six percent per annum. But no such application shall be received and accepted where the assessment exceeds the assessed valuation of the property on the tax roll of the county. The installments shall be paid annually from the time of the apportionment of the costs. In case of default in the payment of any installment for 20 days after it becomes payable, the whole of the remaining unpaid sum shall be collected as a tax against the property assessed for the same.

**551.090 Meetings of landowners; procedure; selection of advisory board and superintendent.** (1) Within 10 days after the petition has been granted, the petitioners shall call a meeting of the landowners of the

district, to be held in the district at a time and place by them designated, for the purpose of choosing three landowners as an advisory board and nominating one landowner for superintendent of the district. Notice of the meeting shall be signed by at least three of the petitioners and posted in three public places in the district five days before the date of the meeting.

(2) At the meeting and at all subsequent district meetings one-half of the landowners in the district being the record owners of at least one-half of the number of acres of land therein shall constitute a quorum competent to transact business, and each landowner present shall be entitled to one vote for each acre of land in the district of which the landowner is at the time the record owner. All meetings shall be organized by selecting a chairperson and secretary. The secretary shall certify all proceedings taken and file the same with the county court of the county within five days after any meeting.

(3) The advisory board shall assist the superintendent with its advice and counsel concerning the necessity of work and the manner thereof and in the repair and maintenance of the dikes and dams in the district. The members of the advisory board shall hold office until the next annual meeting and until their successors are elected and qualified.

(4) There shall be an annual meeting of the landowners of the district on the first Monday in November of each year at 11 a.m., at which time, or at an adjourned meeting thereof, three landowners of the district shall be chosen for the advisory board, and a superintendent shall be nominated for the next calendar year, whose selection shall be certified to the county court on or before January 1 each year. The county court shall appoint for superintendent of dikes in each district the person so nominated by the landowners. Should the district fail to file with the county court a certificate of the nomination of a superintendent, then the county court shall make its own selection from the landowners in the district and appoint the superintendent. In either case the superintendent shall serve until the next annual appointment and until a successor is appointed, subject to removal by the court for neglect of duty, incapacity or other good cause. In case of vacancy in the superintendent's office the county court may, on consultation with the advisory board, fill the vacancy until the next annual selection.

**551.100 Superintendent; compensation; powers and duties; estimate of maintenance costs as basis for annual tax levy.** (1) The superintendent:

(a) Shall receive such pay for services as the court may allow, but shall be paid only



for the time actually employed, and in no case shall the rate of pay exceed that allowed by the county surveyor.

(b) Shall oversee the construction and repair of dikes and dams.

(c) Shall see that all contracts are faithfully executed, and the work done in a thorough manner.

(d) After the dikes are completed, may employ the labor necessary to maintain them at the usual rate of wages allowed to laborers on the county road; provided, that in an emergency the county court may allow a higher rate of wages; and provided, further, that the county court may, with the approval of the advisory board, allow work on maintenance to be done by contract.

(2) The superintendent shall also, not less than 15 nor more than 30 days prior to the beginning of each fiscal year, file with the county court an estimate of the money required for the maintenance of the dikes and dams for the succeeding year. Such estimates added to any indebtedness there may be against the district shall be the basis of the tax for next year. The advisory board also shall file with the county court, on or before the 15th day preceding the beginning of each fiscal year, an estimate of the money required for the maintenance of the dikes and dams for the next succeeding year with a statement of the work in its opinion, required to be done, which estimates the court may consider in making its levy.

**551.110 Deposit of district funds; payment of claims.** Moneys of a district may be deposited in one or more depositories, as defined in ORS 295.001, designated by the superintendent of the district in consultation with the advisory board. Moneys deposited may be withdrawn or paid out only upon a proper order and warrant or upon a check signed by the superintendent. The order shall:

(1) Specify the name of the person to whom the moneys are to be paid;

(2) Specify the fund from which the moneys are to be paid;

(3) State generally the purpose for which the moneys are to be paid; and

(4) Be entered in the record of proceedings of landowner meetings. [Amended by 2001 c.497 §2]

**551.120 Damages; recovery by landowner.** If, in locating and establishing the dikes and dams provided for in this chapter, an owner of land through which they pass is aggrieved on the score of right of way or other causes, the owner shall have proper damage. In such cases claims for damages shall be filed and the amount thereof deter-

mined in accordance with the general road law in like cases. The damages allowed shall be assessed against the lands of the district in the same manner as the tax for construction, and paid to the aggrieved parties in the same manner in which other claims are paid.

**551.130 Organization of repair and maintenance district for land already diked; levy in proportion to benefits; credit for original cost.** Owners of land already diked may organize districts for the repair and maintenance of the dikes and dams thereof by complying with the procedure prescribed in this chapter, except that the petition need not be signed by more persons than the owners of more than one-half of the acreage embraced in the limits of the proposed district. The board of viewers shall provide for placing the dikes and dams in thorough repair and up to a uniform standard, and shall levy the cost of such repairs in the first instance, not upon the assessed valuation of the lands, but in proportion to the benefits conferred. The value of the dikes and dams as they stand shall be estimated and due credit given to the lands which have borne the original cost of construction; provided, such credit shall entitle the land to no consideration greater than release from the cost of repairs in the first instance.

**551.140 Realignment of dikes by landowner.** Any person through whose lands a dike has been constructed under this chapter may be allowed to construct a dike upon new lines between any two points on the original line. In such case the owner shall file application with the county court, giving a plat of the proposed change, and indorsed by the superintendent of the district. If the court is satisfied that the change is not detrimental to the district, the application shall be granted. The applicant shall construct the new dike at the expense of the applicant, and up to the standard of the original, of which fact the superintendent shall be the judge. The dike thus constructed shall become the property of the district in the same manner as the original, and subject to the same regulation, and the right of way of the original dike shall thereupon become vacated.

**551.150 Vacation of right of way; reversion to original owner.** The county court may vacate the right of way through which the dikes and dams pass, in the same manner in which county roads are vacated, and the right of way shall thereupon revert to the original owner.

**551.160 County authority as to dikes and dams.** The governing body of any county shall have the powers provided for it in this chapter to regulate the building and maintenance of dikes and dams for the purpose of reclaiming and improving submers-

ible lands as defined in ORS 274.005, or lands subject to overflow by freshets, and for the purpose of protecting lands from overflow where great damage is liable to be caused thereby. [Amended by 1969 c.594 §60]

**551.170 Appeals from county court.**

Appeals may be taken from the action of the county court in carrying out the provisions of this chapter in like manner as appeals are provided for under the road law. Any judgment resulting therefrom shall be an expense upon the district, and not upon the county, and shall be provided for in the tax levy upon the district.

**551.180 Dissolution conditions and procedure.** (1) A diking district may be dissolved in accordance with ORS 198.920 to 198.955 if:

(a) Either an existing drainage district formed under ORS chapter 547 or an existing water control district formed under ORS chapter 553 agrees to continue to provide

operation and maintenance of the levees and perform other flood control and related works and improvements to the inhabitants of the diking district;

(b) Any other sponsoring governmental agency to which the district owes an obligation under a contract or agreement consents to the dissolution and turnover to the successor district; and

(c) The dissolving district has no outstanding indebtedness.

(2) The dissolution may be initiated by the board of county commissioners of the county in which the district is located notwithstanding the provisions of ORS 198.920 (1)(c)(A). If the proposal meets all the conditions described by subsection (1) of this section, the board of county commissioners shall dispense with the election required by ORS 198.935. [1973 c.665 §2; 2011 c.9 §75]

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# Chapter 552

2017 EDITION

## Water Improvement Districts

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**552.005** [Repealed by 1955 c.707 §75]

**552.010** [Repealed by 1955 c.707 §75]

### GENERAL PROVISIONS

**552.013 Definitions.** As used in this chapter, except when the context requires otherwise:

(1) "County board" means the county court or the board of county commissioners of a county.

(2) "District" means a water improvement district proposed or created under this chapter.

(3) "District board" means the board of directors of a district.

(4) "Engineering plan" means the plans and specifications for the works to be constructed including:

(a) Maps, profiles, plans and other data necessary to show the location and character of the work, and the property benefited, taken or damaged;

(b) All rights of way or other property which may be required for the construction of the works; and

(c) Estimates of the cost of the works and of the benefits and damages which will accrue to each tract of land upon the construction of the works.

(5) "Filed for record" means to file a document for recording with the county clerk of each county in which the lands within a district are located.

(6) "Land" or "tract of land" means real property, together with improvements thereon, within a district.

(7) "Landowner," "owner," "owner of land" and "owner in fee" are synonymous and mean a person owning a tract of land situated within a district. The vendee named in a bona fide contract of sale of a tract of land situated within a district shall be considered a landowner to the exclusion of the vendor. When two or more persons own a tract of land as tenants in common or by the entirety, each person shall be regarded as a landowner.

(8) "Real market value" means real market value computed in accordance with ORS 308.207.

(9) "Works" means dams, storage reservoirs, canals, ditches, dikes, levees, revetments, and all other structures, facilities, improvements and property necessary or convenient for draining land, controlling flood or surface waters, or supplying water for irrigation, domestic supply or other purposes. [1969 c.606 §2; 1983 c.83 §100; 1991 c.459 §428]

**552.015** [Amended by 1955 c.707 §71; renumbered 552.025]

**552.020** [Repealed by 1969 c.168 §1]

**552.025** [Formerly 552.015; repealed by 1969 c.168 §1]

**552.105** [Repealed by 1969 c.168 §1]

### ORGANIZATION OF DISTRICT

**552.108 Creation of water improvement district; purposes; limitation.** (1) A water improvement district may be created as provided by this chapter for the purpose of acquiring, purchasing, constructing, improving, operating and maintaining drainage, irrigation, and flood and surface water control works in order to prevent damage and destruction of life and property by floods, to improve the agricultural and other uses of lands and waters, to improve the public health, welfare and safety, to provide domestic or municipal and industrial water supply, to provide water-related recreation and for the purpose of enhancing water pollution control, water quality, and fish and wildlife resources.

(2) Nothing in this chapter grants to a district the power to generate, distribute, transmit or sell electricity or to sell water or falling water to any person to generate electricity. [1969 c.606 §3; 1987 c.185 §2]

**552.110** [Amended by 1955 c.707 §72; repealed by 1969 c.168 §1]

**552.113 Water rights protected; minimum acreage requirement; withdrawal procedure for city or other special districts.** (1) This chapter shall not be construed to affect, amend or repeal any other law of Oregon or to affect or impair the vested rights of any person or public body as defined in ORS 174.109 to the use of water or rights in the use of water.

(2) A water improvement district formed under this chapter shall include not less than 1,000 acres of land. Lands located within the boundaries of a city, domestic water supply corporation, irrigation district, drainage district or other similar special district providing water for use or water control may be included within the boundaries of a water improvement district without the consent of the city or other district.

(3)(a) If any part of a city or other special district is included within the boundaries described in a petition for creation of a district or for annexation of territory to a district, within three days after the petition is filed, the petitioners shall notify the city or other district of the filing of the petition.

(b) The city or other district may withdraw the territory within its boundaries from the proposed water improvement district or annexation by describing the area within the city or other district in a resolution and filing the resolution with the county board

within 90 days after the filing of the petition. If a withdrawal is so filed, the area within the city or other district shall not be included within the proposal. [1969 c.606 §16; 2003 c.802 §135]

**552.115** [Repealed by 1969 c.168 §1]

**552.118 Petition contents.** In addition to other matters the petition for formation of a district shall include:

(1) An estimate of the acreage of land within the district and an estimate of the acreage within each county if the district is located in more than one county; and

(2) The maximum rate of any ad valorem tax, if any, that may be levied by the district as permitted by ORS 552.625. [1969 c.606 §4; 1971 c.727 §164; 1991 c.459 §428a]

**552.120** [Amended by 1955 c.707 §73; repealed by 1969 c.168 §1]

**552.123** [1969 c.606 §5; repealed by 1971 c.727 §203]

**552.125** [Repealed by 1969 c.168 §1]

**552.128** [1969 c.606 §6; repealed by 1971 c.727 §203]

**552.130** [Repealed by 1955 c.707 §75]

**552.133 Election on formation.** If an election is called on the question of formation, it shall be held on a date specified in ORS 255.345. An order creating a district shall include the maximum rate of any ad valorem tax levy for the district. [1969 c.606 §7; 1971 c.727 §165; 1983 c.350 §299]

**552.135** [Repealed by 1969 c.168 §1]

**552.138 Status of final order; time for protest.** (1) No final order creating a district shall be set aside, or annulled upon appeal or review, on account of any defect or irregularity in the petition asking for organization of the district, or notice of hearings thereon, which does not materially affect the substantial rights of an interested party.

(2) No proceeding may be maintained contesting the validity of the creation of a district unless instituted within 90 days after the entry of the final order of the county board. [1969 c.606 §8]

**552.140** [Repealed by 1969 c.168 §1]

**552.143 Proceedings to test validity of order or act of district board.** (1) In addition to the proceeding a district is authorized to bring under ORS 33.710 and 33.720, any landowner or elector of a district may bring a like proceeding in the circuit court of the county where the lands within the district, or the greater portion thereof, are situated, to determine the validity of any order or the performance of any act mentioned in ORS 33.710, for which a contest is by that section provided. In such a proceeding the district board shall be made parties defendant.

(2) Service of summons shall be made on the members of the board personally if within the county where the district, or any

part thereof, is situated. As to any directors not within the county, service may be had by publication of summons for a like time, and in like manner, as is provided by ORS 33.720. Jurisdiction shall be complete within 10 days after the date of completing publication of notice.

(3) The proceeding shall be tried and determined in the same manner as proceedings brought by the district. [1969 c.606 §9]

**552.145** [Repealed by 1969 c.168 §1]

**552.150** [Repealed by 1969 c.168 §1]

**552.155** [Repealed by 1969 c.168 §1]

**552.160** [Repealed by 1969 c.168 §1]

**552.165** [Repealed by 1969 c.168 §1]

**552.170** [Repealed by 1969 c.168 §1]

**552.175** [Repealed by 1969 c.168 §1]

**552.180** [Repealed by 1969 c.168 §1]

**552.185** [Repealed by 1969 c.168 §1]

**552.205** [Repealed by 1969 c.168 §1]

## BOARD OF DIRECTORS

**552.208 Election of first board of directors; number; qualifications; terms; change of number of directors.** (1) Electors of a district shall elect a board of directors whose number shall be fixed at five, seven or nine by the county board at the proceedings on formation. Directors shall be owners of land within the district. The directors need not reside within the district.

(2) Each director shall be elected for a term of four years except the directors elected on creation of the district. The directors first elected shall determine their terms by lot as follows:

(a) If there are nine directors, the terms of four shall expire June 30 next following the first regular district election and the terms of five shall expire June 30 next following the second regular district election.

(b) If there are seven directors, the terms of three shall expire June 30 next following the first regular district election and the terms of four shall expire June 30 next following the second regular district election.

(c) If there are five directors, the terms of two shall expire June 30 next following the first regular district election and the terms of three shall expire June 30 next following the second regular district election.

(3) The board of directors shall fill any vacancy on the board as provided in ORS 198.320.

(4) The board or 10 or more landowners may petition the county board to change the number of directors on the district board. If the county board acts favorably on the petition, it shall enter an order which designates the terms of office of the five, seven or nine

directors in general accordance with this section so that the number remaining on the district board will be divided into two equal or approximately equal groups as to terms. The change in the number of board members shall take place on July 1 next following the order. [1969 c.606 §17; 1971 c.23 §9; 1971 c.727 §166; 1973 c.796 §69; 1975 c.647 §45; 1983 c.350 §300]

**552.210** [Repealed by 1969 c.168 §1]

**552.213** [1969 c.606 §18; repealed by 1971 c.647 §149]

**552.215** [Repealed by 1969 c.168 §1]

**552.218 Organizational meeting; oath; officers; meetings.** (1) As soon as possible after an election of directors, the directors shall meet for the purpose of qualifying all persons elected as directors and for the purpose of electing officers of the district. Each director shall qualify by subscribing to an oath of office.

(2) The directors shall elect from their number a chairperson and vice chairperson and shall appoint a secretary-treasurer. The officers shall have the authority and duties given to them by the board.

(3) The board shall hold meetings as may be necessary or convenient. [1969 c.606 §19; 1971 c.403 §11; 1987 c.185 §3]

**552.220** [Repealed by 1969 c.168 §1]

**552.223 Duties of district board.** A district board shall:

(1) Manage and conduct the affairs of the district.

(2) Employ and appoint agents and employees, prescribe their duties and fix their compensation.

(3) Establish reasonable rules and regulations for the administration of the affairs of the district.

(4) Withhold deliveries of water to lands upon which there are delinquent assessments or charges.

(5) Establish and maintain funds and accounts for the funds of the district and of any subdistrict.

(6) Obtain an annual audit of the books of the district.

(7) Fix the location of the principal office of the district at some convenient place within or without the district.

(8) Keep a record of all of the proceedings of the district board.

(9) Furnish a record book to the county clerk of each county in which lands within the district are located, in which shall be recorded all contracts executed under ORS 552.618 and 552.670, all orders levying assessments and creating subdistricts, and other documents required by law to be recorded. [1969 c.606 §20; 1971 c.23 §10]

**552.225** [Repealed by 1969 c.168 §1]

**552.228** [1969 c.606 §27; repealed by 1971 c.268 §24]

**552.230** [Repealed by 1969 c.168 §1]

**552.235** [Repealed by 1969 c.168 §1]

**552.240** [Repealed by 1969 c.168 §1]

**552.245** [Repealed by 1969 c.168 §1]

**552.250** [Repealed by 1969 c.168 §1]

**552.255** [Repealed by 1969 c.168 §1]

**552.260** [Repealed by 1969 c.168 §1]

**552.265** [Repealed by 1969 c.168 §1]

**552.270** [Repealed by 1969 c.168 §1]

**552.275** [Repealed by 1969 c.168 §1]

**552.280** [Repealed by 1969 c.168 §1]

**552.285** [Repealed by 1969 c.168 §1]

## POWERS OF DISTRICT

### 552.305 Powers of districts generally.

A water improvement district has full power to carry out the objects of its creation and to that end may:

(1) Have and use a seal.

(2) Have perpetual succession.

(3) Sue and be sued in its own name.

(4) Acquire by condemnation, purchase, devise, gift or voluntary grant real and personal property or any interest therein, located inside or outside of the boundaries of the district, and take, hold, possess and dispose of real and personal property purchased from, or donated by, the United States, or any state, territory, public body as defined in ORS 174.109 or person for the purpose of aiding in the objects of the district.

(5) Enter into intergovernmental agreements under ORS chapter 190 for the construction, preservation, improvement, operation or maintenance of any works.

(6) Build, construct, purchase, improve, operate and maintain, subject to other applicable provisions of law, all works necessary or desirable under any engineering plan adopted by the district.

(7) Enter into contracts and employ agents, engineers and attorneys.

(8) Appropriate and acquire water and water rights and sell, lease and deliver water for irrigation and other purposes both inside and outside the district.

(9) Do such other acts or things as may be necessary for the proper exercise of the powers granted to make the greatest beneficial use of the waters of the district. [1969 c.606 §14; 2003 c.802 §136]

**552.310 Condemnation.** The right to condemn property, pursuant to ORS 552.305 (4), shall include property already devoted to public use, including city, state and county property, which is less necessary than the use for which it is required by the district. In the acquisition of property or rights by condemnation, the board shall proceed in the

name of the district under the provisions of the laws of Oregon. However, the right of condemnation may not be exercised against any water right; against land or other property owned by a city supplying domestic water; a public utility as defined by ORS 757.005; against a telecommunications carrier as defined in ORS 133.721; against lands of a domestic water supply district organized under ORS chapter 264, an irrigation district organized under ORS chapter 545, a drainage district organized under ORS chapter 547, a diking district organized under ORS chapter 551 or a corporation for the use and control of water organized under ORS chapter 554; or against property of the State of Oregon for highway purposes. [1969 c.606 §23; 1983 c.740 §216; 1987 c.447 §109; 1999 c.1093 §18]

**552.315 Right to enter and survey land.** The district board, its officers, agents or employees shall have the right to enter upon any land in the manner provided by ORS 35.220 to make surveys for the purposes of the district. [1969 c.606 §15; 2003 c.477 §9]

**552.320 Operation of water works and sale of water; conditions.** A water improvement district may:

(1) Acquire, construct, reconstruct, equip, own, maintain, operate, sell, lease and dispose of domestic, industrial and municipal water works or systems and property and all appurtenances incident thereto.

(2) Furnish water for domestic, industrial and municipal uses to premises and inhabitants within the district, and in connection therewith, may supply, furnish and sell any surplus water storage or carrying capacity over and above the domestic, industrial and municipal needs of its inhabitants to persons or public bodies as defined in ORS 174.109, either within or without the district. However:

(a) A district shall not sell, offer to sell, lease or deliver water within a city that is receiving water for any purpose from a public utility as defined by ORS 757.005; and

(b) The power to furnish water for domestic, industrial and municipal uses under this section shall not be exercised in such a manner as to impair the service of the district in furnishing water for its inhabitants. [1969 c.606 §21; 2003 c.802 §137]

**552.325 Water charges; use of revenues; collection and enforcement.** (1) The district board shall fix charges for water furnished for domestic, industrial and municipal purposes so that the water system is self-sustaining. All indebtedness incurred in the acquisition, construction, maintenance, operation and disposition of the system shall be paid from the revenue collected and from the proceeds of the disposition of the whole

or any part of the water system. The district board may establish rates or charges to be paid by each person whose premises are served. The rates or charges may be fixed and classified according to the type of use and according to the amount of water used, and according to whether the property serviced lies within or without the boundaries of the district.

(2) The district shall establish and maintain separate accounts covering the acquisition, construction, reconstruction, maintenance, operation and disposition of the domestic, industrial and municipal water system.

(3) The district board may contract with any other district or with a city to collect water charges for the district within the other district or city and the district may pay a reasonable charge for such services.

(4) Water charges may also be collected and enforced as provided by ORS 454.225. [1969 c.606 §22; 1983 c.740 §216a]

**552.330 Water user regulations; enforcement; notice.** A district may adopt and promulgate regulations concerning the use of water of the district. The district board may refuse to supply any building, place or premises with water when the user fails after five days' written notice to comply with the regulations of the district. The written notice shall be by first-class mail or shall be posted in some conspicuous place on the building, place or premises to which the supply of water may be shut off. When the notice is mailed, it shall be considered given when it is deposited in the United States Post Office properly addressed with postage prepaid. [1969 c.606 §26; 1991 c.250 §2]

**552.340** [1969 c.606 §28; repealed by 1987 c.185 §7]

**552.345 User regulations; fees for use of facilities.** A district shall have power:

(1) To make and enforce regulations governing the conduct of the users of the recreational facilities of the district.

(2) To prohibit any person violating any regulation from thereafter using the facilities of the district for such period as the board may determine.

(3) To establish and collect reasonable charges for the use of the facilities of the district and issue appropriate evidence of the payment of such charges. [1969 c.606 §29(1)]

**552.350 Cooperation with the United States; water quality supervision subject to state authority.** (1) A district has the power:

(a) To cooperate with the United States in the manner provided by Congress for flood control, reclamation, conservation and allied purposes, such as recreation, in protecting



the inhabitants, the land and other property within the district from the effects of a surplus or a deficiency of water when the cooperation of the district is beneficial to the public health, welfare, safety and utility.

(b) To have general control and supervision over bodies of water which are owned or maintained, or which have been improved, by the district, insofar as the quality of water may affect the public health, welfare, safety and utility of the bodies of water.

(2) In carrying out the authority granted by subsection (1)(b) of this section, the district may prevent any person including any elected or appointed officer, employee or person under the control of a city, county or district, from depositing directly or indirectly in any such bodies of water, any rubbish, filth or poisonous or deleterious substance liable to affect the health of persons, fish or livestock. However, the authority granted by this subsection shall not be exercised unless the Environmental Quality Commission, after study and determination of a specific request of the district, certifies to the district that the quality of a body of water under the jurisdiction of the district is injurious to the health of persons, fish or livestock. [1969 c.606 §30]

**552.403 Watershed improvement plans; cooperation with Water Resources Commission.** (1) A district shall, within a reasonable time after formation, prepare broad, general plans of watershed improvement. The plan may be prepared in cooperation with the Water Resources Commission and shall conform to the state water resources policy declared by ORS 536.220.

(2) The plan also shall show existing and proposed works of the district and of other public and private agencies relating to water use and control. It shall demonstrate a basis for the coordination and planning of future works of the district, governmental agencies and private interests to assure the maximum beneficial use and conservation of the water resources of the district. The projects and improvement plans shall be based on the inventory of water, needs of the district related to natural resources, and plans and programs, if any, developed by the Water Resources Commission. The district may have access to all information, statistics, plans and data in the possession of or available to any state agency or public corporation which is pertinent to the preparation of the plan and may reimburse the agency or corporation for any expense incurred in cooperating with the board.

(3) After approval by the district board, the plan of the district including the plan for financing any existing or proposed works

may be submitted to the Water Resources Commission for recommendations.

(4) The district board shall make revisions found necessary for the proper control, utilization, conservation, development and improvement of the water resources of the district, and for the protection and enhancement of the quality of such water resources. [1969 c.606 §31]

**552.405** [Repealed by 1969 c.168 §1]

**552.408 District projects; engineering plans.** Construction of district works may be undertaken on motion of the district board or when landowners of the district request the district board to do so. Upon initiation of a construction project, the district board shall obtain engineering plans for the project. [1969 c.606 §33; 1987 c.185 §4; 1989 c.182 §45]

**552.410** [Repealed by 1969 c.168 §1]

**552.413 Engineering plans prepared by other agencies.** In lieu of obtaining engineering plans as provided by ORS 552.408, the district board may adopt as an engineering plan, any plans meeting the requirements of this chapter made by an agency of the federal government or the state, or proposed as project work plans by a soil and water conservation district in which lands within the water improvement district are located. [1969 c.606 §34; 1989 c.182 §46]

**552.415** [Repealed by 1969 c.168 §1]

**552.418 Notice of engineering plan; hearing; objections of landowners; approval or disapproval of plan.** (1) Upon completion or adoption of the engineering plan, the district board shall cause notice to be given to the landowners that the plan, including the general report, may be inspected at the district office. The notice may be given by mail or by publication as the board determines.

(2) The notice shall fix a time and place for a hearing before the district board of all objections to the plan. The hearing shall be held not less than 20 nor more than 30 days after the date of mailing, or the date of the last publication, of the notice. At the hearing the board may make changes in the plan as necessary in the light of objections or suggestions made by persons appearing at the hearing. After the hearing the board shall approve the plan as proposed, corrected or changed, by adopting an order of approval. However, if the owners of more than 50 percent of the acreage within the district, within 30 days after the date of the order approving the plan, file written objections to the order with the secretary of the district, no further action shall be taken under the order and the plan shall be considered disapproved by the district board and rejected by the landowners. When an engineering plan is

rejected by the landowners, the board may obtain a new engineering plan and present it to the landowners as provided by this section. [1969 c.606 §35; 1989 c.182 §47]

**552.420** [Repealed by 1969 c.168 §1]

**552.423 Advertising for bids on construction contract.** After the approval of the engineering plan as provided by ORS 552.418 and before beginning the construction of any works, the district board shall give notice, by publication and otherwise, as it may consider advisable, calling for bids for the construction of such works, or any portion thereof. [1969 c.606 §36; 1989 c.182 §48]

**552.425** [Repealed by 1969 c.168 §1]

**552.428 Letting construction contract; contractor's bond or letter of credit.** After advertising for bids, the board shall let a contract for construction of the whole or any part of the project to the lowest responsible bidder; or the board may reject any or all bids and readvertise; or it may construct the project under its own superintendence. Good and sufficient bond, or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 running in favor of the district, shall be required of each contractor, conditioned that the contractor will well and truly comply with all the provisions of the contract and perform all work in accordance with the terms thereof. [1969 c.606 §37; 1991 c.331 §81; 1997 c.631 §491]

**552.433 Chief engineer of district to superintend work.** If the district has a chief engineer, the chief engineer shall be superintendent of all the works and improvements and shall, whenever required, and at least once each year, make a full report to the district board of all work done and improvements. The chief engineer shall make such suggestions and recommendations to the board as the chief engineer considers proper. [1969 c.606 §38]

**552.438 Construction on public land or right of way, or along watercourse.** (1) A district may construct works across or along any street or public highway, or over any lands which are property of this state, or any subdivision thereof. A district may construct its work across and along any stream of water or watercourse.

(2) Any works across or along any highway, road or street shall be constructed only with the permission of the Department of Transportation, the county board or the city governing body having jurisdiction of the highway, road or street. The district shall restore any highway, road or street to its former state as near as may be and shall not use the right of way in a manner unnecessarily to impair its usefulness. [1969 c.606 §39]

**552.505** [Repealed by 1969 c.168 §1]

**552.510** [Repealed by 1969 c.168 §1]

**552.515** [Repealed by 1969 c.168 §1]

## DISTRICT FINANCES

**552.603 Financing construction, operation or maintenance of district works.** The district board may, in accordance with the order approving an engineering plan adopted under ORS 552.418, finance the construction, operation or maintenance of district works by:

(1) Use of the revolving fund established under ORS 552.635.

(2) Assessments under ORS 552.608 and 552.613 against the benefited property in the district with or without issuance of improvement bonds or warrants.

(3) Service charges and user fees collected under ORS 552.618 or 552.630 from those who are served by or use the services, works and facilities of the district.

(4) Levy of ad valorem taxes under ORS 552.623 and 552.625.

(5) Sale of bonds under ORS 552.645 to 552.660.

(6) Any combination of the provisions of subsections (1) to (5) of this section. [1969 c.606 §40]

**552.605** [Repealed by 1969 c.168 §1]

**552.608 Assessment of cost of works against benefited land; hearing on proposed assessment.** (1) All or part of the cost of building, constructing, purchasing, operating, maintaining and improving the district works described in an engineering plan adopted under ORS 552.408 or 552.413 may be assessed against the lands to be benefited by the works. The district board shall determine the portion of the cost, if any, that is to be paid from the general funds of the district and the portion that is to be paid by the lands benefited.

(2) Assessments shall be apportioned by the district board in accordance with the special and peculiar benefit to be received from the district works by each lot or parcel of land. Where parcels of land, or portions thereof, in the district are undeveloped, the district board may, in its discretion, defer assessing or imposing all or any portion of such assessments on such parcels until such parcels are connected with or receiving services from the district works.

(3) The district board shall afford an opportunity for hearing of any individual objections or remonstrances to assessments under this section. If remonstrances or objections are received by the district board signed by more than 50 percent of the landowners representing more than 50 percent of the acreage within the proposed assessment

district, the proposed improvement shall not be made. [1969 c.606 §41]

**552.610** [Repealed by 1969 c.168 §1]

**552.613 Improvement bonds.** If any portion of the cost of a district works is assessed against the property directly benefited, the district board may issue improvement bonds in the total amount of the valid applications it has received to pay assessments in installments as provided by ORS 223.205 and 223.210 to 223.295. [1969 c.606 §42; 1995 c.333 §19]

**552.615** [Repealed by 1969 c.168 §1]

**552.618 Effect of irrigation contract.** No tract of land shall be considered to be benefited by the construction, operation, maintenance or improvement of irrigation works unless the owner of such land enters into an irrigation contract with the district. The irrigation contract shall be in such form as shall be prescribed by the district. Upon being executed the contract may be filed for record and the recording of the contract shall constitute notice that such lands are subject to assessments thereafter levied in accordance with the contract. [1969 c.606 §24; 1991 c.459 §428b]

**552.620** [Amended by 1955 c.707 §74; repealed by 1969 c.168 §1]

**552.623 Ad valorem tax levy, collection, enforcement.** (1) Subject to ORS 552.625, a district may assess, levy and collect taxes each year on the assessed value of all taxable property within the limits of the district. The proceeds of the tax shall be applied in carrying out the purposes of this chapter.

(2) The district may annually also assess, levy and collect a tax without limitation upon all such property in an amount sufficient to pay the yearly interest on bonds theretofore issued by the district and then outstanding, together with any portion of the principal of the bonds maturing within the year. The tax shall be applied only in payment of interest and principal of bonds issued by the district, but the district may apply any funds it may have toward payment of principal and interest of bonds.

(3) Any taxes needed shall be levied in each year and returned to the county officer, whose duty it is to extend the tax roll, by the time required by law for city taxes to be levied and returned.

(4) All taxes levied by a district shall become payable at the same time and be collected by the same officer who collects county taxes, and shall be turned over to the district according to law. The county officer whose duty it is to extend the county levy shall extend the levy of the district in the same manner as city taxes are extended.

(5) Property shall be subject to sale for nonpayment of taxes levied by a district in like manner and with like effect as in the case of county and state taxes. [1969 c.606 §43; 1981 c.804 §109]

**552.624 Filing boundary change with county assessor and Department of Revenue.** For purposes of ad valorem taxation, a boundary change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225. [2001 c.138 §44]

**552.625 Maximum rate of tax levy; procedure to change rate.** (1) Subject to subsection (2) of this section, a district shall not levy an ad valorem tax in any one year in excess of the maximum rate of levy authorized, which shall be stated in the petition for creation of the district, unless a change in the maximum rate is first approved by the electors. The rate of levy shall be stated in dollars and cents per thousand dollars of assessed value.

(2) A maximum rate of levy fixed upon creation of the district may be increased or decreased by a majority of those voting on a proposed change at an election called for that purpose. An election on the question of a change shall be called by the district board upon a petition therefor signed by not less than 30 landowners. The question may be submitted to the electors on the motion of the board.

(3) A maximum rate of levy fixed as provided by this section is in addition to and not in lieu of any other tax limit provided by law. However, all other tax limits are subordinate to the maximum rate fixed as provided by this section. Notwithstanding any other law, the district board shall not in any one year levy an ad valorem tax in excess of the rate, except when the tax is levied under ORS 552.623 (2) to pay principal and interest on district bonds outstanding.

(4) A certified copy of the district board order declaring the results of an election approving a change in the maximum rate of levy under this section shall be filed for record. [1969 c.606 §44]

**552.630 Service and user charges.** (1) For the purpose of paying the costs of operation and maintenance of district works constructed under this chapter, the district board may by ordinance:

(a) Impose and collect service charges on the owners or occupants of property served by the works of the district.

(b) Impose and collect user charges, fees and tolls for use of works, facilities and services of the district.

(2) Service or user charges shall be based on the cost of operation, maintenance and

administration of the works, facilities or service. [1969 c.606 §45; 1991 c.459 §428c]

**552.635 Levy to establish revolving fund; use of fund.** For the purpose of establishing a revolving fund to provide money to finance the planning and construction of district works, a district board may levy an ad valorem tax of not to exceed in any one year three-twentieths of one percent (0.0015) of real market value of all taxable property within the district. The revenue derived from such taxes shall be credited to a revolving fund, and shall be disbursed by the district board and used only for the purpose for which levied. [1969 c.606 §46; 1991 c.459 §429]

**552.645 General obligation bonds.** (1) For the purpose of carrying into effect any of the powers granted by this chapter, a district, when authorized at any properly called election held for the purpose, has the power to borrow money, and sell and dispose of general obligation bonds. Outstanding bonds shall never exceed in the aggregate two and one-half percent of the real market value of all taxable property within the district.

(2) The bonds shall be issued from time to time by the district board in behalf of the district as authorized by the electors thereof. The bonds shall mature serially within not to exceed 50 years from issue date. However, for an indebtedness to the federal government or this state, the district may issue one or more bonds of the denominations agreed upon. Bonds shall bear interest at a rate payable semiannually as the board shall determine. The bonds shall be so conditioned that the district shall promise and agree therein to pay to the bearer at a place named therein, the principal sum, with interest at the rate named therein, payable semiannually, in accordance with the tenor and terms of the interest coupons attached.

(3) For the purpose of additionally securing the payment of the principal and interest on general obligation bonds issued under this section, the district shall have the power, by resolution of the district, which resolution shall constitute part of the contract with the holders of the bonds, to pledge all or any part of the net revenue of the district. The district board may adopt such a resolution without submitting the question of the pledge to the electors of the district. [1969 c.606 §47; 1983 c.347 §30; 1991 c.459 §430]

**552.655 Refunding bonds.** Refunding bonds of the same character and tenor as those replaced thereby may be issued pursuant to a resolution duly adopted by the district board without submitting to the electors the question of authorizing the issuance of the bonds. [1969 c.606 §48]

**552.660 Process for issuance of bonds.** All general obligation bonds, including refunding bonds, issued under ORS 552.645 to 552.660 shall be issued as prescribed in ORS chapter 287A. [1969 c.606 §49; 2007 c.783 §219]

**552.670 Loan contracts with state or federal agencies.** (1) If authorized by its electors, a district may enter a loan contract with a state or federal agency. The loan contract shall be in such form and shall contain such terms as may be agreed upon by the agency and the district. The district may agree to levy assessments against each tract of land benefited, to do all acts and things necessary therefor, to assign to the lending agency the assessments as security for the loan and to perform all such acts within such period of time as may be agreed to between the district and the state or federal lending agency.

(2) If a state or federal lending agency pays over money to a district pursuant to the terms of a loan contract and the district fails, refuses or neglects to levy the assessments, to obtain or prepare a benefit roll, to assign the assessments or in any other manner not to perform as it agreed to under the loan contract, the state or federal lending agency shall have the right, at its election, to apply to the circuit court for the county in which is located the largest part of the lands within the district for a writ of mandamus, or any other order or writ, to require the district, its directors, officers and agents to do such acts and things as the district agreed to do under the terms of the loan contract. All costs, charges and expenses pertaining to the issuance and execution of any such writ or order shall be charged to and collected from the lands subject to the assessments in addition to such assessments.

(3) Upon the execution of a loan contract, the district shall file for record a certificate which shall state the date of the loan contract, the maximum amount of the loan, the recording data pertaining to the recorded order creating the district, the term of the loan and the rate of interest. Such certificate shall give notice that all lands within the district determined to be benefited by the construction of the works referred to in the engineering plan will be subject to assessments thereafter to be levied. [1969 c.606 §25; 1991 c.459 §430a]

## MISCELLANEOUS

**552.710 Subdistrict procedure; authority.** (1) When a district has adopted a plan under ORS 552.403, subdistricts may be created as provided by this section.

(2) Proceedings to create subdistricts, located totally or partially within or outside of a district, may be initiated by a petition

of the landowners within the subdistrict. Except as otherwise provided by this section, the petition shall fulfill the same requirements concerning the subdistrict as a petition is, by ORS 552.118, required to fulfill concerning the creation of the main district. The petition shall be filed with the county board of the county where the greater portion of land within the boundaries of the subdistrict is located, and shall be accompanied by an undertaking as provided by ORS 552.118. Proceedings to create a subdistrict shall conform in all things to the provisions relating to the creation of a district. However, the owners of 50 percent or more of the total acreage within the proposed subdistrict shall be required to sign the petition for the creation of a subdistrict.

(3) If the county board adopts an order creating a subdistrict, the clerk of the county board shall give notice of the order to the district board. The district board of the main district is the governing board of each subdistrict of the district. For the purpose of qualifying to be a member of a district board, under ORS 552.208 (1), ownership of land within a subdistrict, regardless of the location of the subdistrict, is considered ownership of land within the district. The territory within one subdistrict may be included within another subdistrict or subdistricts.

(4) After the creation of a subdistrict, proceedings in reference to a subdistrict shall in all matters conform to the provisions of this chapter applicable to districts. In all matters affecting only a subdistrict, provisions of this chapter applicable to a district apply to the subdistrict as though it were an independent district.

(5) The petition for creation of a subdistrict shall include a statement of the amount or quantity of water for which the subdistrict desires to acquire the perpetual use and the amount of money the subdistrict is willing to pay therefor. Prior to the entry of a judgment creating a subdistrict, the county board shall be furnished the verified consent of the district board to furnish such perpetual use of water for the purposes specified to the subdistrict at a price and upon the terms mentioned in the petition. [1969 c.606 §32; 2003 c.576 §519]

**552.720 Dissolution of irrigation, drainage or water control district and transfer of assets and liabilities to water improvement district.** (1) Any district organized or operating under ORS chapter 545, 547 or 553 may dissolve and transfer its property and other assets and liabilities to a water improvement district which will undertake to furnish service to the inhabitants of the dissolving district.

(2) Except as provided by this section, dissolution, liquidation and transfer proceedings shall be conducted as provided by ORS 198.920 to 198.955.

(3) When a petition is filed or a resolution is adopted initiating dissolution proceedings, the governing board of the dissolving district and the district board of the water improvement district shall meet with each other to agree on a debt distribution plan to be voted upon as a part of the proposal. The debt distribution plan may provide for any distribution of indebtedness between the water improvement district and the dissolving district. If the boards do not agree on a debt distribution plan or if the area within the dissolving district remains liable under the plan for any portion of the indebtedness outstanding at the time of the dissolution and transfer, the district board of the water improvement district shall be ex officio board of the dissolved district for the purpose of levying taxes or collecting charges in such area until the bonded and other indebtedness of the dissolved district is paid.

(4) The consent of all the known holders of valid indebtedness against the dissolving district shall be obtained or provision made in the debt distribution plan for the payment of the nonassenting holders. The area within the boundaries of the dissolving district shall not by reason of the dissolution and transfer be relieved from liabilities and indebtedness previously contracted by the dissolving district.

(5) If the dissolution is approved at an election in accordance with the law applicable to the dissolving district, the governing body of the dissolving district shall convey to the water improvement district all assets of the dissolving district after paying and discharging the debts and obligations to, or procuring releases from the nonassenting holders, in accordance with the debt distribution plan. [1969 c.606 §13; 1971 c.727 §167; 1991 c.459 §430b]

**552.730** [1969 c.606 §11; repealed by 1971 c.647 §149]

**552.740 Notice requirements.** When notice is required by this chapter to be given by publication, the notice shall be published in a newspaper of general circulation in the district, or if there is no such newspaper, in a newspaper of general circulation in each county in which the district is located. Notice of a hearing to be held before the district board or the county board shall be published once each week for four consecutive weeks, making four publications, and the last publication shall be at least five days before the date set for the hearing. All other notices required to be published under this chapter shall be published once each week

for two consecutive weeks, making two publications, and the last publication shall be at least five days before the date of the event for which the notice is given. This section does not apply to provision of notice for an election. [1969 c.606 §12; 1971 c.647 §119; 1983 c.350 §304]

**552.750 Election laws applicable.** (1) ORS chapter 255 governs the following:

(a) The nomination and election of directors.

(b) The conduct of all district elections.

(2) The electors of a district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255.135 to 255.205. [1983 c.350 §302]

### BOUNDARY CHANGES

**552.810 Procedure for inclusion or exclusion of land in district.** A petition for inclusion or exclusion of territory in a district may be filed without the approval of the district board indorsed on the petition. However, if the county board approves the petition and determines the boundaries, the

district board shall call an election in the district for the purpose of submitting the proposal to the electors of the district. [1969 c.606 §10; 1971 c.727 §168; 1983 c.83 §101; 1983 c.350 §305]

**552.820** [1969 c.606 §50; repealed by 1971 c.727 §203]

**552.825** [1969 c.606 §51; repealed by 1971 c.727 §203]

**552.830 Date of election on dissolution of district.** An election on dissolution may be held only on the same date as the regular district election. [1969 c.606 §52; 1971 c.727 §169; 1983 c.350 §306]

**552.835** [1969 c.606 §53; repealed by 1971 c.727 §203]

**552.840** [1969 c.606 §54; repealed by 1971 c.727 §203]

**552.845** [1969 c.606 §55; repealed by 1971 c.727 §203]

**552.850** [1969 c.606 §56; repealed by 1971 c.727 §203]

**552.855** [1969 c.606 §57; repealed by 1971 c.727 §203]

**552.860** [1969 c.606 §58; repealed by 1971 c.727 §203]

**552.990** [Repealed by 1969 c.168 §1]

### PENALTIES

**552.992 Penalties.** Subject to ORS 153.022, violation of any regulation adopted under ORS 552.345 is a Class B violation. [1969 c.606 §29(2); 1987 c.185 §5; 1999 c.1051 §198]

# Chapter 553

2017 EDITION

## Water Control Districts

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### GENERAL PROVISIONS

**553.010 Definitions.** As used in this chapter, except where the context clearly indicates a different meaning:

(1) "Board" means the board of directors of a water control district created under the provisions of this chapter.

(2) "District" means a water control district created under this chapter.

(3) "Court" means the county court having jurisdiction over a water control district and includes the board of county commissioners.

(4) "Land" or "tract of land" means real property, together with improvements thereon, whether publicly or privately owned, within a district.

(5) "Landowner," "owner," "owner of land" and "owner in fee" are synonymous and mean a person, public body as defined in ORS 174.109, or the federal government or any agency thereof, owning a tract of land situated within a district, or within the boundaries of a proposed district. The vendee named in a bona fide contract of sale of a tract of land situated within a district shall be considered as a landowner to the exclusion of the vendor. Whenever two or more persons own a tract of land as tenants in common or by entirety, each such person shall be regarded as a landowner. The guardian, administrator or executor authorized to act as such of a person or estate owning land within a district shall be considered a landowner.

(6) "Works" means dams, storage reservoirs, canals, ditches, dikes, levees, revetments, and all other structures, facilities, improvements and property necessary or convenient for draining land, controlling flood or surface waters, or supplying lands with water for irrigation, domestic or other purposes.

(7) "Notice by publication" means the giving of notice by publication in a newspaper defined as a legal publication under the laws of Oregon in each county in which lands within a district are located. A notice of a hearing to be held before the board of a district or the court shall be published once each week for four consecutive weeks making four publications and the last publication of such notice shall be at least 10 days before the date set for the hearing. All other notices required to be published under the provisions of this chapter shall be published once each week for two consecutive weeks making two publications, and the last publication shall be at least five days before the

date of the event for which the notice is given. This subsection does not apply to provision of notice for an election.

(8) "Engineering plan" means the plans and specifications for the works to be constructed or purchased within any subdistrict, including such maps, profiles, plans and other data as may be necessary to set forth the location, character of the work, the property benefited, taken or damaged, showing any and all rights of way or other property which may be required for the construction of any works, together with the estimates of the cost of the works and an estimate of the benefits and damages which will accrue to each tract of land within a subdistrict upon the construction or purchase of the works. A project work plan prepared for a subdistrict in cooperation with a soil and water conservation district may be adopted as the engineering plan, even though such project work plan is not the final construction plan, and does not give an estimate of the benefits and damages which will accrue to each tract.

(9) "Apportion" means to determine the proportionate share of any assessment which is to be borne by a tract of land subject to assessment or to determine the proportionate share of any charge which is to be borne by the owner or occupant of a tract of land. The determination shall be made by calculating the percentage ratio of the appraised benefits of a tract of land to the total appraised benefits accruing to all tracts of land, or owners and occupants thereof, subject to the assessment or charge and allocating to the tracts of land, or owners and occupants, the same percentage of the total sum of money to be raised by the assessment or charge.

(10) "New assessed valuation" means the assessed valuation of a tract of land as assessed by the county assessor for the county in which the land is located for the year in which an adjustment of benefits is made by a district.

(11) "Original appraised benefits" means the benefits determined to accrue to a tract of land by an appraisal.

(12) "Original assessed valuation" means the assessed valuation of a tract of land as assessed by the county assessor for the county in which the land is located for the year in which the original benefits were determined.

(13) "Record" means to file a document for recording with the county clerk of each county in which the lands within a district or subdistrict are located. [Amended by 1961 c.186 §4; 1965 c.623 §1; 1969 c.691 §1; 1983 c.83 §102; 1983 c.350 §307; 1991 c.459 §430c; 2003 c.802 §138]

## ORGANIZATION AND POWERS OF DISTRICT

**553.020 Creation of water control districts; purposes; limits.** (1) Water control districts may be created as provided in this chapter for the purpose of acquiring, purchasing, constructing, improving, operating and maintaining drainage, irrigation, and flood and surface water control works in order to prevent damage and destruction of life and property by floods, to improve the agricultural and other uses of lands, and to improve the public health, welfare and safety.

(2) A water control district, organized for one or more of the purposes provided by subsection (1) of this section, may also acquire, purchase, construct, improve, operate and maintain works and facilities for the secondary purposes of domestic, municipal and industrial water, recreation, wildlife, fish life and water quality enhancement. However, a water control district may not be created solely for one or more of the purposes provided by this subsection. [Amended by 1969 c.691 §2]

**553.030** [Amended by 1965 c.623 §2; repealed by 1971 c.727 §203]

### **553.035 Application of election laws.**

(1) ORS chapter 255 governs the following:

(a) The nomination and election of directors of the district board.

(b) The conduct of district elections.

(2) The electors of a district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255.135 to 255.205.

(3) A person may vote in a district election only if the person is an elector registered in the district. However, in any district in which there are no electors registered in the district and the property is used for business, industrial or farming purposes and is nonresidential in character, all owners of property located within the district may vote, and the authorized officer or representative of any corporation owning land in the district may vote for the corporation landowner. [1983 c.350 §311]

**553.040** [Amended by 1965 c.623 §2a; repealed by 1971 c.727 §203]

**553.050** [Repealed by 1971 c.727 §203]

**553.060** [Amended by 1965 c.623 §3; repealed by 1971 c.727 §203]

**553.065** [1965 c.623 §8a; 1969 c.691 §3; repealed by 1971 c.727 §203]

**553.070 Boundary change; consent.** If any contract has been entered into between the district and the United States or the State of Oregon or any agency of either of them, or if the district has contracted to purchase any existing works and the purchase price has not been paid in full, no

change shall be made in the boundaries of the district without the written consent of such contracting agency or the vendor of such existing works. [Amended by 1965 c.623 §4; 1971 c.727 §170]

**553.080** [Amended by 1959 c.71 §1; 1967 c.609 §12; 1969 c.691 §3a; repealed by 1971 c.647 §149]

### **553.090 Nature and powers of district.**

A water control district formed under the provisions of this chapter has full power to carry out the objects of its creation and to that end may:

(1) Have and use a seal.

(2) Have perpetual succession.

(3) Sue and be sued in its own name.

(4) Acquire by condemnation, purchase, devise, gift or voluntary grant real and personal property or any interest therein, located inside or outside of the boundaries of the district.

(5) Enter into intergovernmental agreements under ORS chapter 190 for the construction, preservation, improvement, operation or maintenance of any works.

(6) Build, construct, purchase, improve, operate and maintain, subject to other applicable provisions of law, all works and improvements necessary or desirable under any engineering plan adopted by the district.

(7) Enter into contracts and employ agents, engineers and attorneys.

(8) Appropriate and acquire water and water rights and sell, lease and deliver water for irrigation and other purposes both inside and outside the district.

(9) Create special assessment districts, hereinafter referred to as subdistricts, for the purpose of levying assessments against lands benefited by works constructed by the district or ad valorem taxes on all taxable property within the subdistrict.

(10) Levy assessments against lands benefited by works constructed by the district or, in lieu of all assessments provided for by ORS 553.510 (2), (3) and (4), levy ad valorem taxes on all taxable property within the subdistrict in order to provide funds for the construction, purchase, improvement, operation or maintenance of such works.

(11) Borrow money and issue notes, bonds, and other indebtedness secured by mortgage liens, pledge of special assessments as provided in ORS 553.510, or pledge of other income or revenue of the district, or any combination thereof.

(12) In addition to or in lieu of the levy of assessments against the lands of the district, impose and collect service charges upon the owners or occupants of the property served by the works of the district and impose and collect user charges, fees and

tolls for use of the works, facilities and services of the district.

(13) Do such other acts or things as may be necessary for the proper exercise of the powers herein granted. [Amended by 1965 c.623 §5; 1991 c.459 §430d; 2003 c.802 §139]

**553.095 Entry upon land; notice.** The board of directors, its officers, agents or employees shall have the right to enter upon any land to make surveys for the purposes of the district, upon giving the owners of such land notice of any such surveys reasonably in advance thereof. [1965 c.623 §9]

**553.100** [Repealed by 1975 c.326 §5]

**553.105 Districts coterminous with 1969 districts; abolishment of existing districts.** (1) There hereby is created a water control district territorially coterminous with each water control district existing on June 16, 1969, if such district was at that time a valid district but for the fact that its electorate was restricted to property owners. In determining the boundaries of districts created by this subsection, full effect shall be given to annexations, withdrawals and consolidations effected by districts prior to June 16, 1969, under this chapter or other statutes authorizing or purporting to authorize such action.

(2) Water control districts territorially coterminous with the districts created by subsection (1) of this section hereby are abolished.

(3) Water control districts created by this section shall be governed by this chapter. [1969 c.691 §16]

**553.107 Effect of creation of districts under ORS 553.105.** Each water control district created by ORS 553.105 shall in all respects succeed to and replace the territorially coterminous water control district abolished by ORS 553.105. Without limiting the foregoing:

(1) A successor district is:

(a) The owner of the property of the succeeded district, including real property and funds on deposit with the county treasurer or banks.

(b) Successor party to the contracts of the succeeded district.

(c) Successor party to the court proceedings of the succeeded district.

(d) Successor obligor on the indebtedness of the succeeded district.

(2) The directors and officers of the succeeded district are the directors and officers of the successor district. Each director and officer shall hold office for a term equal to the term of office in the succeeded district. [1969 c.691 §17]

**553.110 Vested water rights; inclusion of land in district or assessment; consent.**

(1) This chapter shall not be construed to affect, amend or repeal any other law of Oregon or to affect or impair the vested rights of any person or public body as defined in ORS 174.109, to the use of water or rights in the use of water.

(2) No lands located within the boundaries of any city, irrigation district or drainage district shall be included within the boundaries of a water control district without the consent of the city or district.

(3) No lands publicly owned and no lands of any railroad, public utility or telecommunications utility shall be assessed without the consent of the owner thereof. [Amended by 1987 c.447 §133; 2003 c.802 §140]

## GOVERNING BODY

**553.210 Election of directors; qualifications; terms; vacancies; change in number of directors.** (1) The electors of a district shall elect a board of directors whose number shall be fixed at five, seven or nine by the county court during formation proceedings. Directors shall be owners of land within the district and subject to the current charges and assessments of the district. The directors need not reside within the district.

(2) Each director shall be elected for a term of four years, commencing July 1, except the directors elected at the first election immediately following creation of the district. The directors first elected shall determine their terms by lot as follows:

(a) If there are nine directors, the terms of four shall expire June 30 next following the first regular district election and the terms of five shall expire June 30 next following the second regular district election.

(b) If there are seven directors, the terms of three shall expire June 30 next following the first regular district election and the terms of four shall expire on June 30 next following the second regular district election.

(c) If there are five directors, the terms of two shall expire June 30 next following the first regular district election and the terms of three shall expire June 30 next following the second regular district election.

(3) The board of directors shall fill any vacancy on the board as provided in ORS 198.320.

(4) The board of directors or 10 or more landowners may petition the county court to change the number of directors on the board of directors. If the court acts favorably on the petition, it shall enter an order which designates the terms of office of the five, seven or nine directors in general accordance with the provisions of this section so

that the number remaining on the board will be divided into two equal or approximately equal groups as to terms. The change in the number of board members shall take place on July 1 next following the order. [Amended by 1961 c.186 §5; 1965 c.623 §6; 1969 c.669 §15; 1969 c.691 §§4,18; 1971 c.647 §120; 1971 c.727 §171; 1971 c.727 §198; 1973 c.796 §70; 1975 c.647 §46; 1983 c.350 §308; 2001 c.264 §1]

**553.220 Organization meeting; officers; duties; meetings.** As soon as possible after an election of directors, the directors shall meet for the purpose of qualifying all persons elected as directors and for the purpose of electing officers of the district. Each director shall qualify by subscribing to an oath of office. The directors shall elect from their number a president and vice president and shall appoint a secretary-treasurer. Such officers shall have such authority and duties as may be given to them by the board. The board shall hold such meetings as may be necessary or convenient. [Amended by 1971 c.403 §12]

**553.230 Powers and duties of board.** The board shall:

(1) Manage and conduct the affairs of the district.

(2) Adopt a seal.

(3) Make and execute all necessary contracts.

(4) Employ and appoint such agents, officers and employees as may be required, and prescribe their duties and fix their compensation.

(5) Establish reasonable rules and regulations for the administration of the affairs of the district.

(6) Withhold deliveries of water to lands upon which there are delinquent charges or assessments.

(7) Impose charges or levy assessments for special benefits and apportion the same among the lands, or owners or occupants of the lands, within the district liable therefor as provided in this chapter.

(8) Acquire water rights for the purposes of the district or subdistrict and the lands served thereby.

(9) Establish and maintain funds and accounts for the funds of the district and of any subdistrict within the district.

(10) Obtain an annual audit of the books of the district.

(11) Fix the location of the principal office of the district at some convenient place within or without the district.

(12) Keep a record of all of the proceedings of the board.

(13) Furnish a record book to the county clerk of each county in which lands within

the district are located, in which shall be recorded all contracts, orders levying assessments and creating subdistricts, and other documents required by law to be recorded.

(14) Levy special assessments as provided in ORS 553.510 and set charges, fees and tolls for use of services and facilities made available by the district or subdistrict.

(15) Issue notes, bonds and other evidence of indebtedness incurred in connection with the construction, acquisition, improvement, or operation and maintenance of works authorized by this chapter. [Amended by 1965 c.623 §7; 1969 c.345 §16; 1991 c.459 §430e]

**553.240 County court as governing body.** (1) The county court may be established as the governing body of a water control district as provided by this section if the boundaries of the district are coterminous with the boundaries of the county.

(2) At the election of the first governing body of a water control district, the electors of the district shall choose either the county court or a board of directors to be the governing body of the district. The electors of the district also shall vote for directors, who shall take office if the electors choose to have a board of directors as the governing body.

(3) If a majority of the votes cast at the election favors the county court as the governing body of the district, all duties, functions and powers granted to a board of directors of a water control district are vested in the county court. The county court shall be the governing body of the water control district until the district is dissolved. [1957 c.606 §2; 1971 c.647 §121; 1971 c.727 §174; 1971 c.727 §199; 1983 c.350 §309]

**553.250 Authority to acquire and dispose of water works; sale of water.** (1) Notwithstanding any other provisions of this chapter, any water control district, whenever it appears necessary, proper or beneficial to its inhabitants, may acquire, construct, reconstruct, equip, own, maintain, operate, sell, lease and dispose of domestic, industrial and municipal water works or systems and property and all appurtenances incident thereto.

(2) Any such water control district may furnish water for domestic, industrial and municipal uses to premises and inhabitants within its district, and in connection therewith, may supply, furnish and sell any surplus water storage or carrying capacity over and above the domestic, industrial and municipal needs of its inhabitants to persons and other public bodies as defined in ORS 174.109, either within or without the district; provided, however, that the power to furnish water for domestic, industrial and municipal uses herein conferred will not be exercised in such a manner as to impair the service of

the district in furnishing water for its inhabitants. [1963 c.363 §2; 2003 c.802 §141]

**553.260** [1963 c.363 §3; repealed by 1969 c.691 §13]

**553.270 Procedure on condemnation; property subject to and exempted from condemnation.** The right to condemn property, given pursuant to ORS 553.090 (4) shall include property already devoted to public use, including state and county property, which is less necessary than the use for which it is required by the district. In the acquisition of property or rights by condemnation, the board shall proceed in the name of the district under the provisions of the laws of Oregon. However, the right of condemnation may not be exercised against the lands or water rights of an irrigation district organized under ORS chapter 545, a drainage district organized under ORS chapter 547, a flood control district organized under ORS chapter 550, a diking district organized under ORS chapter 551, a water improvement district organized under ORS chapter 552, a corporation for the use and control of water organized under ORS chapter 554 or a domestic water supply district organized under ORS chapter 264, or against property of the State of Oregon used for highway purposes. [1965 c.623 §10; 1983 c.740 §217]

**553.280 Undertaking prior to entry as part of condemnation proceedings.** Prior to any party, officer or agent of a water control district entering upon any land sought to be condemned, there shall be furnished to the landowner a sufficient undertaking, either by surety bond, personal bond, cash or other security, in an amount sufficient to indemnify the landowner for the value of the land sought to be condemned, together with all costs and attorney fees to which the landowner may be entitled. This undertaking shall be conditioned that the district seeking to condemn the land shall pay to the owner all damages, costs and attorney fees that the owner may suffer by reason of the entry, or which may be awarded to the owner by a jury upon a trial of the cause. [1965 c.623 §11]

**553.290 Possession of land after commencement of proceedings.** At any time after the board of directors of a water control district has commenced proceedings to acquire title to any land necessary for rights of way, or for construction, alteration, repair or reservoir purposes, the district may enter into possession of such lands and begin such work as may be necessary to the development of the district. [1965 c.623 §12]

## CONSTRUCTION OF WORKS IN SUBDISTRICTS; DETERMINATION OF BENEFITS

**553.310 Creation of subdistrict; change in subdistrict boundaries; procedure.** (1) Whenever the owners of more than 50 percent of the acreage, exclusive of state and federally owned land, in a body of land located within a district desire to have the district undertake the construction or purchase of works and facilities for purposes as set forth in ORS 553.020 which will benefit their lands, they shall petition the board for the creation of a subdistrict. The petition shall state the boundaries proposed for the subdistrict; the name and address of each person signing the petition; a brief general statement as to the works the petitioners desire to have constructed or purchased; and a prayer asking that the lands described be organized as a subdistrict. The description of the boundaries of the proposed subdistrict shall be certified to as a complete and sufficient legal description by a qualified engineer or land surveyor and such certificate shall be filed with the board at the time the petition is filed. The petition shall be considered by the board at its next meeting, and if it meets with the approval of the board, the board shall adopt an order creating the subdistrict in which shall be described the boundaries of the subdistrict. A subdistrict may include all or any part of the lands within a district. A copy of the order shall be recorded in each county in which lands within the subdistrict are located.

(2) Notwithstanding subsection (1) of this section, a subdistrict created under provisions of this chapter can be formed in the formation proceedings if:

(a) The petition for formation states the purposes for which the petitioners request formation of both the district and subdistrict;

(b) The boundaries of both the district and subdistrict are coterminous;

(c) The description of the boundaries of the proposed subdistrict are certified as to complete and sufficient legal description by a qualified engineer or surveyor; and

(d) Owners of more than 50 percent of the acreage of the land in the proposed district and subdistrict sign the petition to form the water control district and subdistrict.

(3) After the creation of a subdistrict as provided by this chapter, the boundaries thereof may be changed by the inclusion of lands outside of the subdistrict upon the petition of the owners of 50 percent of the lands desiring to be included in the subdistrict. The lands to be added to the subdistrict must be within the boundaries of the district. The petition shall state the boundaries of the

lands to be included in the subdistrict, the reason for adding the lands to the subdistrict, the names and addresses of each person signing the petition and a prayer asking that the lands described by the petition be annexed to the subdistrict. The petition shall be filed with the board of directors. A certificate containing a description of the boundaries of the subdistrict after the proposed addition, certified to as a complete and sufficient legal description of the subdistrict after the proposed annexation by a certified engineer or land surveyor, shall be filed with the board at the time the petition is filed. The board of directors shall enter an order fixing a time and place for a hearing on the petition and shall either give notice by publication of the hearing or a notice by mail to all landowners within the boundaries of the lands proposed for inclusion in the subdistrict. At the hearing or at any time and place to which the hearing may be adjourned, the board shall determine what lands proposed to be included within the subdistrict will be benefited by inclusion in the subdistrict, and the new boundaries of the subdistrict shall be described by the order. [Amended by 1961 c.186 §6; 1969 c.691 §5; 1971 c.727 §172; 2001 c.258 §1]

**553.320 Engineering plan; notice of completion; inspection; hearing; changes in plan; approval; rejection upon objections of landowners.** After the creation of a subdistrict, the board shall secure an engineering plan for the improvements requested in the petition for the creation of the subdistrict. The board may adopt as an engineering plan for a subdistrict any plans theretofore made by any department or agency of the federal government or the State of Oregon or a project work plan proposed for any soil and water conservation district in which lands within the subdistrict are located, or the board may employ a qualified engineer to make such engineering plan. Upon completion of the plan the board shall cause notice thereof to be given to the owners of the tracts of land within the subdistrict and shall permit the inspection of the plan at the office of the subdistrict by all landowners. The notice may be given by mail or by publication, as may be determined by the board. The notice shall fix a time and place for a hearing before the board of all objections to the plan, which hearing shall be held not less than 20 nor more than 30 days after the date of mailing or the date of the last publication of the notice. At the hearing the board shall make such changes in the engineering plan as it deems necessary in the light of any objections or suggestions made by any person appearing at the hearing. After the hearing, the board shall approve the plan as corrected or changed, by adopting an order of approval. However, if

the owners of more than 50 percent of the lands within the subdistrict file written objections to the order approving the engineering plan with the secretary of the district within 15 days after the date of such order, no further action shall be taken under the order and the plan shall be considered to have been rejected by the landowners. Whenever an engineering plan for a subdistrict is so rejected by the landowners the board may obtain a new engineering plan and present it to the landowners in the manner above provided or the board may dissolve the subdistrict. [Amended by 1961 c.186 §7]

**553.330 Assessment for cost of works.** The cost of building, constructing, purchasing, operating, maintaining and improving the works described in an engineering plan for a subdistrict shall be charged to the owners of the lands, or assessed against the lands, to be benefited by the works in proportion to the benefits to be received by each tract of land. Only the lands or owners within a subdistrict shall be liable for, charged with or in any manner assessed or taxed for the payment of judgments, claims, damages, costs, expenses, debts or other liabilities of or against a district that accrue from, arise out of or are incurred in the building, constructing, purchasing, operating, maintaining or improving the works of such subdistrict. [Amended by 1991 c.459 §430f]

**553.340 Determination of benefits; board of appraisers; exception.** (1) The board, with such assistance as it deems necessary, shall prepare a benefit roll and determine the benefits that will accrue to each tract of land located within a subdistrict upon the construction of the works described in the engineering plan for the subdistrict. After such determination is made each landowner shall be given written notice thereof by registered mail or by certified mail with return receipt. If the landowner does not file written objections thereto within 30 days of the date the notice is mailed, the landowner shall be deemed to have consented to the allocation of benefits to the lands of the landowner. If a landowner files objections within 30 days, the determination of the benefits that will accrue to the lands of the landowner shall be referred to a board of appraisers. A board of three appraisers shall be appointed by the court, upon the petition of the board of directors, whenever one or more landowners within the subdistrict files an objection. Each of the appraisers shall, before assuming duties, take and subscribe to an oath that the appraiser will faithfully and impartially discharge duties as an appraiser and will make a true report of all work done by the appraiser. The court may, by order, remove any appraiser at any time and shall

fill all vacancies on the board of appraisers or may appoint a new board as the case may require. The appraisers shall receive such compensation as the board of directors, with the approval of the court, determines, and shall be reimbursed for the expenses they incur in the exercise of their duties.

(2) Subsection (1) of this section shall not apply if the benefits to be determined are set forth in an irrigation project contract which has been executed by the owner pursuant to ORS 553.760. [Amended by 1969 c.691 §6; 1991 c.249 §56]

**553.350 Assessment of benefits and damages by appraisers; benefits less than costs; recommendation to amend engineering plan; final report and certificate.**

(1) The appraisers shall assess the amount of benefits and the amount of damages, if any, that will accrue to each tract of land which they are directed by the board of directors to appraise, and shall determine the value of any lands to be acquired and used for rights of way and other purposes by the subdistrict. The appraisers shall determine the benefits to the lands themselves and to any buildings and other structures erected on such lands. The appraisers shall take into consideration the agricultural or other uses of such lands, the increase in value thereof upon the completion of the proposed works, and the increased income which will be derived from the lands upon the construction of the works. In making their appraisal, the appraisers shall give due consideration and credit to any works that have already been constructed and which benefit any tract of land they are appraising. The appraisers shall have no power to change the engineering plan.

(2) Whenever it appears to the appraisers that the benefits to all the lands within the subdistrict will be less in value than the cost of the proposed works, the appraisers shall file a preliminary report of their work with the board of directors and recommend to the board that the engineering plan be amended so that the proposed works can be constructed at a cost less than the benefits to be derived therefrom. If the board obtains an amended engineering plan, the appraisers shall proceed with their work.

(3) Upon completing their work, the appraisers shall file a final report with the court and certify that the appraisal has been completed and that there is nothing further for them to do in regard to the matter.

**553.360 Hearing on report of appraisers; exceptions; entry of order; appeal.** (1) After the filing of the report of the appraisers, the court shall enter an order fixing the time and place for a hearing on the report and directing the secretary of the

district to give notice of the hearing by publication. The notice shall contain a description of each tract of land appraised, together with the names of the owners, if known, and shall state that the appraisers appointed to assess the benefits and damages to the lands described and to appraise the cash value of the lands necessary to be taken for rights of way and other works within or without the limits of the subdistrict, have filed their report with the court and that the owner of each tract of land included therein is given notice that the owner may examine the report and file objections to the report or to any determination of benefits or damages on or before the date set for the hearing.

(2) The district or any person owning or having any interest in the lands described, or the owner of any tract of land within the subdistrict for which the appraisals were made, may file exceptions to the report of the appraisers or to any determination of benefits or damages determined to accrue to lands upon the construction of the proposed works or to the determination of the cash value of the lands necessary to be taken for rights of way or other works.

(3) The court shall hear all objections and make such amendments and modifications to the report of the appraisers as to the court may seem equitable. Upon the conclusion of the hearing the court shall enter its order in which shall be given the description of each tract of land appraised, the value of the benefits and damages which the court determines will accrue to each tract, and the value of lands necessary to be taken for rights of way and other works.

(4) Any party interested may take an appeal from such order in the manner set forth in ORS 553.815. The order shall be filed in the office of the county clerk of the county in which the court is situated, and a certified copy of the order shall be filed with the county clerk of each other county in which lands within the subdistrict are located. [Amended by 1969 c.691 §7]

**553.370 Reappraisal after construction of works; when authorized.** In the event that it is determined, after the construction of any works within a subdistrict, that any lands within the subdistrict are benefited and the benefits accruing to such lands were not determined by the board or by appraisal or the benefits determined by the board are less than the benefits actually accruing to the property, or in case any person makes use of or profits by the works within any subdistrict to a degree not compensated for in the original determination of benefits by the board or by appraisal, or in case the directors of the district find it necessary to take

or damage any additional property, the directors shall petition the court for appointment of a board of appraisers to appraise or reassess the benefits accruing to any tract of land within the subdistrict or to appraise the damages to or value of any property taken. After the appraisers file their report, the court shall act thereon in the manner provided for the approval by the court of the original appraisal.

**553.380 Reduction of benefits.** In the event that it is determined after the construction of any works within a subdistrict that the benefits received by any tract of land are materially less than the appraised benefits, the board may, upon the petition of any owner of a tract of land, hold a hearing on the question of whether the benefits should be reduced. The board shall give notice by mail 30 days prior to such hearing to all other owners of land within the subdistrict. After hearing evidence for and against the reduction of benefits assessed against the tract of land in question, the board shall make an order reducing the amount of assessed benefits or dismissing the petition.

#### **ASSESSMENTS; CLAIMS; EQUALIZATION**

**553.510 Special assessments.** In order to raise the funds required by a district for the construction, purchase, operation, maintenance and improvement of works and facilities for purposes set forth in ORS 553.020 in any subdistrict, and in order to pay the general overhead and other expenses of a district which are not chargeable directly to any subdistrict, the lands benefited by any or all of such types of works and by the operation of the district shall be subject to special assessments of the following classes:

(1) A preliminary assessment, which shall be levied for the purpose of defraying the expenses incurred by the district for organization of the district, for organization of subdistricts, and for defraying overhead costs and other expenses including purchases of rights of way, acquisition of land and payment of fees and services as may be incurred by the district prior to the time that construction assessments are levied or a tax is levied. A preliminary assessment shall be apportioned on the basis of the assessed valuation of property in the district. A preliminary assessment shall be not more than five-hundredths of one percent (0.0005) of the real market value of all taxable property within the district computed in accordance with ORS 308.207. No district shall levy a preliminary assessment for more than three years.

(2) A construction assessment, which shall be levied for the purpose of defraying

the cost of constructing or purchasing the works in each subdistrict. The construction assessment shall be levied as soon as the board is able to determine the probable cost of constructing or purchasing the works described in the engineering plan for a subdistrict or a construction assessment may be levied for the construction or purchase of works in accordance with any loan agreement with the government of the United States or the State of Oregon for money to be used in the construction or purchase of such works or in accordance with a purchase agreement entered into with the seller of such works. All construction assessments shall be paid in 10 equal annual installments and shall bear interest at a rate not to exceed six percent per annum until paid from the date the first installment of the assessment is due. Any landowner may make advance payments on the construction assessment levied against the lands of the landowner. The board may, in its discretion, decrease the amount of any annual installment and spread the payment of the construction assessment over a period longer than 10 years. Such decrease shall apply uniformly to all lands within the subdistrict. Whenever the board determines that the original construction assessment is not in an amount sufficient to pay the cost of constructing or purchasing the works described in the engineering plan for the subdistrict, the board shall assess a second construction assessment.

(3) A maintenance and operation assessment, which shall be levied for the purpose of defraying the cost of maintaining and operating the works constructed within any subdistrict. On or before November 1 of each year the board shall determine the probable cost of maintaining and operating the works within each subdistrict during the ensuing calendar year.

(4) An improvement assessment, which shall be levied for the purpose of defraying the cost of making improvements within a subdistrict. On or before November 1 of each year the board shall determine the probable cost of making any necessary improvements to any completed works within each subdistrict. No improvement assessment levied in any one year shall be greater in amount than one percent of all construction assessments levied against the same tract of land. In case of an emergency the board may, upon the approval of the owners of over half of the lands affected, levy, assess and collect a special improvement assessment. The board may, in its discretion, levy an improvement assessment within the limitations above provided in order to accumulate a fund to make improvements in future years. [Amended by 1959



c.605 §1; 1961 c.186 §8; 1965 c.623 §13; 1969 c.691 §8; 1991 c.459 §431]

**553.520 Apportioning assessments; adjustment of benefits.** (1) After determining the sum of money to be raised by any assessment, except a preliminary assessment, the board shall apportion the same among the lands liable therefor. Benefits used as a basis for apportioning maintenance and operation assessments and improvement assessments, except assessments levied for the operation, maintenance and improvement of irrigation works, may be adjusted from year to year in such manner that the adjusted benefits are in the same proportion to the new assessed valuation of the tract of land as the original appraised benefits are in proportion to the original appraised benefits plus the original assessed valuation of such tract of land.

(2) Adjusted benefits shall be made the basis for apportioning the maintenance and operation assessments and the improvement assessment, and shall not be used as a basis for apportioning construction assessments or preliminary assessments. Benefits determined to be accruing to lands upon the construction of irrigation works shall not be adjusted in any manner.

**553.530 Disposition of funds received.**

(1) All sums of money received by a district in payment of any assessment shall be kept in a separate fund for each subdistrict from which the assessment is collected. All funds remaining unexpended in any construction fund after the payment of all costs incurred for the construction of works in any subdistrict shall be paid into the improvement fund for such subdistrict, and any funds remaining on hand in any maintenance and operation fund for any year for any subdistrict shall likewise be paid into the improvement fund of that subdistrict.

(2) The district shall maintain a general fund in which shall be kept all funds received by the district for paying the general overhead and other expenses of the district. The district shall pay into the general fund such portion of each of the special assessments levied against lands within subdistricts as is necessary to pay the general expenses and overhead of the district.

**553.535 Collection of charges and assessments by resolution of board.** (1) In lieu of the provisions and methods contained in ORS 553.535 to 553.580, the board of directors of a district may provide by resolution for the billing and collection of the charges or assessments of the district in the manner provided under ORS 545.482 to 545.508 for irrigation districts.

(2) A resolution adopted under this section may apply to any or all of the assess-

ments provided for under ORS 553.510, including but not limited to all charges or assessments for operation and maintenance, repairs, bond or interest payments, payments due or to become due to the United States under any contract of the district with the United States or other expenses of the district.

(3) Where in ORS 545.482, 545.484 and 545.508, the board or an officer of an irrigation district is referred to, the corresponding board or officer of a water control district shall perform the required actions. [1991 c.459 §431b]

**553.540 Assessments to be levied by order of board; filing copy thereof; notice; lien; time for payment; interest.** (1) All assessments shall be levied by an order of the board. The order shall state the description of the land assessed, the name of the owner of the land as such name appears on the records of the district, or the records of the county assessor, the type and kind of assessment, the amount of the assessment due, and the due date. It shall not be necessary to issue a separate order for each tract of land in a subdistrict, and any number of tracts in the same subdistrict and the same county may be included in one order. A copy of the order levying an assessment, certified and acknowledged by the secretary of the district, shall be filed with the county clerk of the county in which the land is located. Upon being filed, the assessment shall constitute a lien against the land assessed, prior in time to any other liens, rights or interests in the tracts of land described except liens for taxes levied by the state or county.

(2) Notice of all assessments levied by a district shall be given to the landowner by mail and shall be payable on the 30th day after such notice is mailed. All assessments paid after the due date shall be charged interest at the rate of not more than 12 percent per annum. All assessments shall be paid to the secretary-treasurer of the district and a receipt shall be issued therefor. From time to time the board shall order the satisfaction of the liens against lands on which assessments have been paid, and a copy of such order shall be filed with the county clerk of the county in which the lands are located. [Amended by 1961 c.186 §9; 1981 c.122 §1]

**553.550 Loans; assignment of assessments as security for.** A district may borrow money and secure repayment of the same by the assignment of any assessments theretofore levied. Whenever a levied assessment is assigned to secure the repayment of any sum of money borrowed, the assessment shall be paid to the assignee thereof or the agent of the assignee.

**553.560 Foreclosure of assessment; procedure; district may bid and purchase; deed; right of redemption.** (1) After the date fixed as the time when an assessment shall become due, the board, by resolution, shall direct that all delinquent assessments then unpaid, whether for operation and maintenance, improvement, construction, or other purposes, shall be foreclosed by the district. Such foreclosure shall follow the general procedures of a suit in equity and shall be filed in the circuit court of the county in which the land to be foreclosed is situated. If land in two or more counties is to be foreclosed, separate proceedings shall be commenced in each county as to the lands therein. The district may recover in such suit the costs and disbursements and other expenses of foreclosure. Any number of tracts of lands, whether they are delinquent for the same or any number of assessments or for the same or several years, may be foreclosed in the same suit. The court may award reasonable attorney fees to the district if the district prevails in a foreclosure action under this section. The court may award reasonable attorney fees to a defendant who prevails in a foreclosure action under this section if the court determines that the district had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

(2) The judgment in such suit shall order the sale of such property and fix the time for holding the sale, which shall be not more than four weeks from the date of the judgment, and shall order the sheriff of the county to hold the same as other foreclosure sales, upon giving notice thereof for two consecutive weeks prior to the day of sale, by publication of notice once each week in a newspaper published in the county in which the land to be sold is situated and by posting notices in three public and conspicuous places in the county at least two weeks prior to the day of sale.

(3) The district may be a bidder and purchaser of property upon such sale. Upon such sale the sheriff immediately shall issue a deed to the property sold, and no right of redemption shall exist. [Amended by 1981 c.897 §64; 1995 c.696 §30; 2003 c.576 §520]

**553.570 Withdrawal of land from foreclosure sale; payment of lien, taxes and proportion of costs.** At any time prior to sale or at the time of sale as provided by ORS 553.560, the former owner, assessment payer or holder of legal or equitable title or lien upon or to any tract of land included in the foreclosure and judgment may pay the amount of the lien foreclosed, together with such amount of state and county taxes as the

district may have paid and a proportionate amount of the costs incurred in such foreclosure proceedings, and withdraw the tract of land from the foreclosure sale. If made prior to the judgment, the payment shall be tendered to the clerk of the court, together with a written appearance in the suit. If made after the judgment is entered, the payment shall be tendered to the sheriff ordered to hold the sale. If payment is made before judgment, the tract of land then shall be excluded from the foreclosure proceedings. If payment is made after judgment, the district shall issue satisfaction of lien to such former owner, assessment payer or holder of equitable or legal title upon the tract of land and file the same for record. [Amended by 2003 c.576 §521]

**553.580 Payment of state and county taxes by district.** At any time after any assessment levied under this chapter becomes delinquent, the district may pay any state and county taxes due or delinquent against such tracts of land as are delinquent in the payment of the district assessment, and add such amount to and foreclose the same as part of the lien of the district against such tracts of land.

**553.585 Claims; presentation; payment.** All claims against the district shall be presented to the district board for allowance or rejection. Upon allowance, the claim shall be attached to a voucher verified by the claimant or agent of the claimant, approved by the president of the board and countersigned by the secretary, and directed to the treasurer of the district for the issuance of a check for payment of the claim against the proper fund in the custody of the district. Each claim presented and approved by the board shall have indorsed upon it the particular fund from which it is to be paid by the treasurer. Claims against the district for administrative expense and for any costs or expenses which are not properly chargeable directly to a particular subdistrict shall, when allowed by the district board, be paid from the general fund of the district. [Formerly 553.590]

**553.590** [Renumbered 553.585]

**553.592** [1965 c.623 §42; repealed by 1991 c.459 §431c]

**553.595** [1965 c.623 §43; repealed by 1991 c.459 §431c]

**553.600** [1965 c.623 §44; repealed by 1991 c.459 §431c]

## BONDS

**553.610 Assessments or taxes upon bond issue.** Any water control district issuing bonds may, after an affirmative vote at any regular or special election called or held pursuant to the Water Control District Act, proceed to levy and collect assessments or ad valorem taxes as provided in subsections (1) and (2) of this section.

(1) A water control district may proceed to levy and collect assessments for any purposes of the water control district on a benefited basis as provided in ORS 553.330 and as determined under ORS 553.340 to 553.380. However, no change in method of assessment shall be made except with the consent of the holders of outstanding bonds.

(2) In lieu of the provisions of subsection (1) of this section and not in addition thereto, a water control district may proceed to levy an ad valorem tax for the purpose of paying the principal and interest on bonded indebtedness when it becomes due. [1965 c.623 §14a]

**553.615 Assessments by order of board.** In lieu of the provisions contained in ORS 553.535 to 553.580, a district may levy any one or all of the assessments provided in this chapter by an order of the board. The order shall state the description of the land assessed, the name of the owner of the land as such description and name appears on the records of the county assessor, the type and kind of assessment, the amount of the assessment due, which shall be certified by the board not later than July 15 of each year to the county assessor of each county in which lands of the district are situated. The county assessor shall enter the assessment upon the county assessor's roll against the property therein described, in the same manner as other municipal taxes are entered by the county assessor. The collection of the assessment shall be coincident with collection of the state and county tax, and shall be governed by the laws relating thereto. [1965 c.623 §15]

**553.620 Ad valorem tax in lieu of assessment.** (1) A water control district may, in lieu of any or all of the assessments provided in this chapter, levy an ad valorem tax upon all taxable property situated within the boundaries of the district or subdistricts for a purpose or purposes expressed therein. A levy of an ad valorem tax for a given purpose shall not be in addition to any other assessments by a water control district for that purpose.

(2) As used in this section, "purpose" means the type of service to be performed by the district, or subdistrict, as set forth in ORS 553.020 (1) and (2). When the construction of an improvement serves more than one purpose, the cost of construction or the cost of maintenance shall be allocated between the two or more purposes on the basis of engineering studies. [1965 c.623 §16; 1969 c.691 §9]

**553.623 Filing boundary change with county assessor and Department of Revenue.** For purposes of ad valorem taxation, a boundary change must be filed in final approved form with the county assessor and the

Department of Revenue as provided in ORS 308.225. [2001 c.138 §46]

**553.625 Levy and collection of tax authorized by ORS 553.620.** The ad valorem tax provided for in ORS 553.620 shall be levied and collected in the manner otherwise provided by law for the levy and collection of real property taxes. The board shall prepare a budget in the form, manner and time prescribed in ORS 294.305 to 294.565 (the Local Budget Law), for the district and for each subdistrict for which taxes are to be levied and assessed, and in accordance therewith shall fix the amount of money to be raised by taxation for the district and for each subdistrict. Thereafter the levy shall be equalized and the tax collected and turned over to the district as otherwise provided by law for public corporations. [1965 c.623 §17]

**553.630 Terms and conditions of bonds; bond register.** (1) The bonds issued shall be numbered consecutively, commencing with number 1. They shall mature serially in annual amounts so as to be approximately equal, principal and interest, commencing not more than five years and extending not more than 50 years after the date of issue, as the board of directors may determine, or in case the board deems it advisable to submit the question of maturities at the bond election, then as the electors may determine. They shall be negotiable in form. The bonds may be issued when so authorized by the electors so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds.

(2) The bonds shall bear interest at a rate determined by the board of directors, payable semiannually on the first day of January and July of each year. The principal and interest shall be payable at the places designated in the bonds and coupons. The bonds shall be signed by the president and secretary. Coupons for interest shall be attached to each bond, and may be signed with the printed, lithographed or engraved facsimile signature of the secretary.

(3) The secretary of the district shall register the bonds in books kept in the office of the secretary for that purpose, and therein must be stated the number, date, amount of bond, time and place of payment, rate of interest, number of coupons attached, and any other description proper for future identification of each bond. This section shall not be construed to provide that any bond of the district shall bear a registration certificate by the secretary. [1965 c.623 §20; 1969 c.691 §10; 1991 c.459 §431d]

**553.635 Contract provisions for payment of government construction charges.** The contract provisions for the payment of construction charges to the

United States, and the bonds securing the payment of the same, if any are issued and deposited, may be of such denomination and may call for the payment of such interest not exceeding six percent per annum, may provide for such installments and for repayment of the principal at such times, as may be required by the federal laws and as may be agreed upon between the board and the appropriate federal agency. [1965 c.623 §21]

**553.640 Sale of bonds; cancellation.** (1)

The board may sell from time to time the bonds which have been authorized by the electors and in such quantities as may be necessary and most advantageous. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of bonds, and the day, hour and place of such sale, and shall cause the resolution to be entered on the minutes. Notice of sale shall be given by publication. The notice shall state that sealed proposals will be received by the board at its office for the purchase of the bonds until the day and hour named in the resolution. At the time appointed, the board shall open the proposals and may reject any or all bids. After offering the bonds for sale, as above provided, if no satisfactory bid is received, the board may use the bonds for any purpose for which the proceeds from the sale of bonds may be used, but the board shall in no event sell or dispose of any bonds for less than 90 percent of their face value.

(2) The board may by resolution entered on its records cancel any bonds which may have been voted or issued which have not been sold or deposited as security for funds advanced or to be advanced, and which the state, United States or any person has no claim to or equity in. After such cancellation, the bonds shall not be sold or otherwise disposed of; they shall be invalid and of no effect; and the board may not replace them without authorization of the electors. [1965 c.623 §22]

**553.643 Bond given for federal loan; form; terms.** The district may borrow from the United States or an agency thereof, by furnishing the agency with a single bond or other evidence of indebtedness in such form and on such terms as are required by the federal laws and as may be agreed upon between the board and the federal agency. [1969 c.691 §12; 1991 c.459 §431e]

**553.645 Payment from annual taxes and assessments of bond-related amounts due government.** The bonds and the interest thereon and all payments due or to become due to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the

United States, and all obligations for the payment of money authorized and incurred under this chapter, shall be paid by the revenue derived from the annual charges upon the owners or occupants of, or taxes or assessments upon, the land in the subdistrict. All the owners or occupants or lands in the subdistrict shall be and remain liable to be charged, taxed or assessed for such payments as provided in the Water Control District Act and under and subject to the provisions thereof. [1965 c.623 §23; 1991 c.459 §431f]

**553.650 Property liable for indebtedness of district.** In addition to the provisions for the payment of bonds and interest by taxation and other provisions of this chapter, all the property of the subdistrict, including irrigation and other works, shall be liable for the indebtedness of the subdistrict. The holder of the bonds, or the United States in case contract has been executed by the United States, may, in case of default in the payment of interest or principal on the bonds, or the amount due on the contract, upon the order of the circuit court, take possession of the works of the subdistrict and operate the same until the amount in default is fully paid. [1965 c.623 §24]

**553.655 Bond elections in subdistricts.**

(1) Upon order of the board, an election shall be held in the subdistrict to determine whether bonds in any amount the board may deem necessary shall be issued for any purpose necessary or convenient in carrying out the provisions of this chapter, including the refunding of outstanding bonds.

(2) If a majority of the votes cast at the election approve the issuance of the bonds, the board shall cause bonds in that amount to be issued, or such portion thereof as may be necessary from time to time. If the majority of the votes cast disapprove issuance of the bonds, the result of the election shall be entered of record.

(3) Whenever thereafter the board in its judgment deems it for the best interest of the subdistrict that the question of the issuance of bonds in any amount shall be submitted to the electors, it shall so declare of record in its minutes, and may thereupon submit such questions to the electors in the same manner and with like effect as at the previous election. [1965 c.623 §§18,19; 1971 c.647 §122]

**553.660 Tax or assessment as lien on property.** Any tax or assessment upon land shall be a lien against the property assessed or taxed, and such lien for all payments due or to become due under any contract with the United States or for the payment of principal or interest of bonds deposited with the United States shall be a preferred lien to any assessments for bonds issued subsequent to the date of such contract or the issuance

of the bonds deposited with the United States. No subdistrict tax or assessment lien shall be removed until the assessments or tax is paid with interest and penalties or the property sold for the payment thereof. [1965 c.623 §25]

**553.665 Bond Fund; Bond and United States Contract Fund; Construction Fund; General Fund.** The treasurer shall keep a "Bond Fund" account or a "Bond and United States Contract Fund" account, as the case may be, into which shall be deposited all moneys arising from the sale of refunding bonds and from charges, assessments, taxes and levies until there is sufficient money in the fund to meet the next installment of principal and interest upon bonds of the subdistrict and to meet all payments for construction and other purposes to the United States. From the fund the treasurer shall pay moneys due as principal and interest on bonds as they mature and the bonds and coupons are presented and as payments to the United States fall due. Moneys received from the sale of bonds and otherwise for construction or acquisition of works by the subdistrict shall be deposited into a "Construction Fund." All other moneys received by the subdistrict shall be deposited into a fund known as the "General Fund," from which shall be defrayed all obligations of the subdistrict other than those in this section described. The Bond and United States Contract Fund accounts shall be devoted to the obligations of the subdistrict payable therefrom in the order of the priority of the creation of the obligations. [1965 c.623 §26; 1991 c.459 §431g]

**553.670 Process for issuance of bonds.** Bonds authorized by this chapter shall be issued in the manner prescribed in ORS chapter 287A. [1965 c.623 §27; 1997 c.171 §21; 2007 c.783 §220]

## CONTRACTS WITH OTHER GOVERNMENTAL UNITS FOR CONSTRUCTION OF WORKS

**553.710 Intergovernmental agreements; levy of tax to meet obligations.** After the creation of a subdistrict, and with the approval of the electors of the subdistrict, a water control district may enter into intergovernmental agreements under ORS chapter 190 for the construction of works within the subdistrict or outside of the subdistrict for the benefit of lands within the subdistrict. If by reason of an intergovernmental agreement a district becomes obligated to contribute all or any part of the cost of constructing such works or to furnish rights of way or to pay for the cost of improvements to be made in conjunction with the construction of such works or to maintain and operate the works after the con-

struction thereof, the district may levy an ad valorem tax against the lands within the subdistrict for the purpose of raising funds with which to discharge its obligations under the agreement and to pay the costs and expenses incurred by the district in connection therewith. The levy of an ad valorem tax for such purposes shall be in lieu of and not in addition to any other method of levying assessments by a water control district. [Amended by 1991 c.459 §431h; 2003 c.802 §142]

**553.720 Manner of collecting tax; budget; equalizing levy.** The ad valorem tax provided for in ORS 553.710 shall be levied and collected in the manner otherwise provided by law for the levy and collection of property taxes. The board shall prepare a budget in the form, manner and time prescribed in ORS 294.305 to 294.565 (the Local Budget Law), for each subdistrict for which taxes are to be levied and assessed, and in accordance therewith shall fix the amount of money to be raised by taxation for each subdistrict. Thereafter the levy shall be equalized and the tax collected and turned over to the district as otherwise provided by law for public corporations. [Amended by 2017 c.26 §10]

**553.730 Limitation on tax levy.** No levy of an ad valorem tax under ORS 553.710 for any one year shall exceed one-half of one percent (0.005) of the real market value of all taxable property within the subdistrict, computed in accordance with ORS 308.207. If the total sum of money required to be raised under the terms of a contract entered into by a district, together with the sum of money to be raised to pay the costs and expenses of the district incurred in connection therewith, exceeds such limitation, a levy for each year thereafter shall be made by the district until the entire contract obligation has been discharged. [Amended by 1963 c.9 §31; 1991 c.459 §432]

**553.740 Issuance of warrants.** After the amount of a levy under ORS 553.710 is determined and turned over to the county assessor, a district may issue warrants to an amount not in excess of 75 percent of the amount of the levy. The warrants shall be serially numbered and shall bear interest of not more than six percent and shall be paid by the treasurer of the district in the order of issuance upon receipt of funds from the county treasurer.

**553.750 Loan contracts with state or federal agencies; obligation of district; recording certificates.** (1) Whenever a district has adopted, as the engineering plan for a subdistrict, a project work plan prepared for the subdistrict by a department of the federal government, and in connection with the development of such plan desires to borrow money from any state or federal agency, such district may, in lieu of levying a pre-

liminary assessment, and with the approval of the electors of the subdistrict, enter into a loan contract with such agency.

(2) The loan contract shall be in such form and shall contain such terms as may be agreed upon by the agency and the district; the district may agree to levy a construction assessment against each tract of land benefited within the subdistrict, to do all acts and things necessary therefor, to assign to the lending agency the construction assessments as security for the loan and to perform all such acts within such period of time as may be agreed to between the district and the state or federal lending agency.

(3) In the event that a state or federal lending agency pays over money to a district pursuant to the terms of a loan contract and the district fails, refuses or neglects to levy the construction assessments, to obtain or prepare a benefit roll, to assign the construction assessments, or in any other manner not to perform as it agreed to under the loan contract, the state or federal lending agency shall have the right, at its election, to apply to the circuit court for the county in which is located the largest part of the lands within the subdistrict for a writ of mandamus, or any other order or writ, to require the district, its directors, officers and agents to do such acts and things as the district agreed to do under the terms of the loan contract. All costs, charges and expenses pertaining to the issuance and execution of any such writ or order shall be charged to and collected from the lands subject to the construction assessments in addition to such construction assessments.

(4) Upon the execution of a loan contract, the district shall record with the county clerk for the county in which the lands within the subdistrict are located, a certificate which shall state the date of the loan contract, the maximum amount of the loan, the recording data pertaining to the recorded order creating the subdistrict, the term of the loan and the rate of interest. Such certificate shall give notice that all lands within the subdistrict determined to be benefited by the construction of the works referred to in the engineering plan will be

subject to construction assessments thereafter to be levied. [1961 c.186 §2; 1991 c.459 §432a]

**553.760 When land benefited by irrigation project.** No tract of land shall be considered to be benefited by the construction, operation, maintenance or improvement of irrigation works unless the owner of such land enters into an irrigation contract with the district. The irrigation contract shall be in such form as shall be prescribed by the district. Upon being executed the contract shall be recorded with the county clerk of the county in which such lands are located and the recording of the contract shall constitute notice that such lands are subject to all maintenance and operation assessments thereafter levied and all other assessments thereafter or theretofore levied by the district. [1961 c.186 §3]

**553.810** [Repealed by 1969 c.691 §13]

## APPEALS

**553.815 Judicial review of tax or assessment.** Owners of any property against which an assessment or tax has been levied may seek a review thereof under ORS 34.010 to 34.100. [1969 c.691 §15]

**553.820** [Repealed by 1969 c.691 §13]

## DISSOLUTION

**553.850 Dissolution upon majority vote.** Any water control district may be dissolved whenever a majority vote of the electors of the district voting at an election for such purpose favors the dissolution. [1965 c.623 §28]

**553.855** [1965 c.623 §29; repealed by 1971 c.727 §203]

**553.860** [1965 c.623 §30; repealed by 1971 c.727 §203]

**553.865** [1965 c.623 §31; repealed by 1971 c.647 §149]

**553.870** [1965 c.623 §32; repealed by 1971 c.727 §203]

**553.875** [1965 c.623 §33; repealed by 1971 c.727 §203]

**553.880** [1965 c.623 §34; repealed by 1971 c.727 §203]

**553.885** [1965 c.623 §§35,36; repealed by 1971 c.727 §203]

**553.890** [1965 c.623 §37; repealed by 1971 c.727 §203]

**553.895** [1965 c.623 §38; repealed by 1971 c.727 §203]

**553.900** [1965 c.623 §39; repealed by 1971 c.727 §203]

**553.905** [1965 c.623 §40; repealed by 1971 c.727 §203]

**553.910** [1965 c.623 §41; repealed by 1971 c.727 §203]

## Chapter 554

**2017 EDITION**

## Corporations for Irrigation, Drainage, Water Supply or Flood Control

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## WATER LAWS

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- 554.410**    **Applicability of ORS 554.005 to 554.340 to corporations organized under 1911 Act**
- 554.420**    **Amendment of articles, and landowners' notice, of corporation organized under 1911 Act**
- 554.430**    **Applicability of 1911 Act, as amended, to corporations organized under that Act**
- 554.440**    **Malheur Improvement Company; exclusion or inclusion of land**

### **INCLUSION AND EXCLUSION OF LAND**

- 554.510**    **Authority to include or exclude lands**
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- 554.540**    **Meeting date**
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- 554.570**    **Effect of exclusion on existing debts**
- 554.580**    **Condition of approval of inclusion**
- 554.590**    **Articles of amendment; filing; effective date**



**GENERAL PROVISIONS**

**554.005 Filing requirements.** (1) For the Secretary of State to file a document under ORS 554.005 to 554.340, the document must satisfy the requirements set forth in this section and any other requirements in ORS 554.005 to 554.340 that supplement or modify the requirements set forth in this section.

(2) ORS 554.005 to 554.340, 554.420, 554.440 or 554.510 to 554.590 must require or permit filing the document with the Office of the Secretary of State.

(3) The document must contain the information required by ORS 554.005 to 554.340, 554.420, 554.440 or 554.510 to 554.590 and may contain other information.

(4) The document must be legible.

(5) The document must be in the English language.

(6) The document must be executed:

(a) By the chairperson of the board of directors of a corporation or one of the corporation's officers;

(b) If directors have not been selected or before the organizational meeting, by an incorporator;

(c) If the corporation is in the hands of a receiver, trustee or other court-appointed fiduciary, by the receiver, trustee or fiduciary; or

(d) By an agent of a person identified in this subsection, if the person authorizes the agent to execute the document.

(7) The person that executes the document shall state beneath or opposite the signature the person's name and the capacity in which the person signs. The document may, but is not required to, contain:

(a) The corporate seal.

(b) An attestation by the secretary or an assistant secretary.

(c) An acknowledgment, verification or proof.

(8) If the Secretary of State has prescribed a mandatory form for the document, the document must be in or on the prescribed form.

(9) The document must be delivered to the Office of the Secretary of State and must be accompanied by the required fees.

(10) Delivery of a document to the Office of the Secretary of State is accomplished only when the Office of the Secretary of State actually receives the document. [1987 c.94 §137; 1999 c.486 §19; 2013 c.159 §14]

**554.007 Effective time and date of document.** (1) Except as provided in subsection (2) of this section and ORS 554.009, a document accepted for filing is effective on

the date it is filed by the Secretary of State and at the time, if any, specified in the document as its effective time.

(2) If a document specifies a delayed effective time and date, so the document becomes effective at the time and date specified. If a document specifies a delayed effective date but no time, the document becomes effective on that date. A delayed effective date for a document may not be later than the 90th day after the date it is filed. [1987 c.94 §139]

**554.009 Correcting filed document.** (1) A corporation may correct a document filed by the Secretary of State, other than an annual report, if the document contains an incorrect statement or was defectively executed, attested, sealed, verified or acknowledged.

(2) A corporation shall correct a document by delivering articles of correction to the Office of the Secretary of State. The articles shall include the following:

(a) A description of the document, including its filing date, or a copy of the document.

(b) The incorrect statement and the reason it is incorrect, or a description of the manner in which the execution, attestation, seal, verification or acknowledgment is defective.

(c) A correction of the incorrect statement or defective execution, attestation, seal, verification or acknowledgment.

(3) Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed. [1987 c.94 §140]

**554.010** [Repealed by 1987 c.94 §171]

**554.011 Penalty for signing false document.** (1) A person commits the crime of signing a false document for filing if the person:

(a) Knows the document is false in any material respect; and

(b) Signs the document with an intent that the document be delivered to the office of the Secretary of State for filing under ORS 554.005 to 554.340.

(2) Signing a false document for filing is a Class A misdemeanor. [2013 c.158 §12]

**554.012 Forms; rules.** Upon request, the Secretary of State may furnish forms for documents required or permitted to be filed by this chapter. The Secretary of State may by rule require the use of the forms. [1987 c.94 §138; 1995 c.215 §29]

**554.015 Filing duty of Secretary of State.** (1) If a document delivered to the Office of the Secretary of State for filing satisfies the requirements of ORS 554.005, the Secretary of State shall file it.

(2) The Secretary of State files a document by indicating thereon that it has been filed by the Secretary of State and the date of filing. After filing a document, except for the annual report, the Secretary of State shall return an acknowledgment of filing to the corporation or its representative.

(3) If the Secretary of State refuses to file a document the Secretary of State shall return it to the corporation or its representative within 10 business days after the document was delivered together with a brief written explanation of the reason for the refusal.

(4) The Secretary of State's duty to file documents under this section is ministerial and is limited in scope of review as set out by rule of the Secretary of State. The Secretary of State is not required to verify or inquire into the legality or truth of any matter included in any document delivered to the Office of the Secretary of State for filing. The Secretary of State's filing or refusing to file a document does not:

(a) Affect the validity or invalidity of the document in whole or part; or

(b) Relate to the correctness or incorrectness of information contained in the document.

(5) The Secretary of State's refusal to file a document does not create a presumption that the document is invalid or that information contained in the document is incorrect. [1987 c.94 §141; 1999 c.486 §20]

**554.016 Filing, service, copying and certification fees.** The Secretary of State shall collect the fees described in ORS 56.140 for each document delivered for filing under this chapter and for process served on the secretary under this chapter. The secretary may collect the fees described in ORS 56.140 for copying any public record under this chapter, certifying the copy or certifying to other facts of record under this chapter. [1991 c.132 §18; 1999 c.652 §16]

**554.017 Appeal from Secretary of State's refusal to file document.** If the Secretary of State refuses to file a document delivered to the Office of the Secretary of State for filing, the corporation, in addition to any other legal remedy that may be available, shall have the right to appeal from such order pursuant to the provisions of ORS 183.480. [1987 c.94 §142]

**554.018 Evidentiary effect of copy of filed document.** (1) A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature, which may be in facsimile, is conclusive evidence that the original document, or a facsimile thereof, is on file with the Office of the Secretary of State.

(2) The provisions of ORS 56.110 apply to all documents filed pursuant to ORS 554.005 to 554.340, 554.420, 554.440 and 554.510 to 554.590. [1987 c.94 §143]

**554.019 Certificate of existence.** (1) Anyone may apply to the Secretary of State to furnish a certificate of existence for a corporation formed under ORS 554.005 to 554.340.

(2) A certificate of existence when issued means that:

(a) The corporation's corporate name is registered in this state;

(b) The corporation is duly incorporated under ORS 554.005 to 554.340 or chapter 172, Oregon Laws 1911;

(c) All fees payable to the Secretary of State under ORS 554.005 to 554.340, 554.420, 554.440 and 554.510 to 554.590 have been paid, if nonpayment affects the existence or authorization of the corporation;

(d) An annual report required by ORS 554.315 has been filed by the Secretary of State within the preceding 14 months; and

(e) Articles of dissolution have not been filed by the Secretary of State.

(3) A person may apply to the Secretary of State to issue a certificate covering any fact of record. [1987 c.94 §144; 1991 c.132 §33]

**554.020 Articles of incorporation; filing.** (1) One or more natural persons of the age of 18 or more, a domestic or foreign corporation, a partnership or an association, by submitting articles of incorporation to the Office of the Secretary of State for filing, may act as incorporators of a corporation for one or more of the following purposes:

(a) Irrigating or draining land.

(b) Furnishing land with water for domestic use.

(c) Protecting land by flood control.

(d) Taking ownership of and operating existing sanitary sewer facilities when water for domestic use is supplied pursuant to paragraph (b) of this subsection.

(2) The incorporators shall file a true copy of the articles of incorporation in the county clerk's office of the county where the land incorporated is situated.

(3) The requirements for filing a document under ORS 554.005 apply to articles of

incorporation. [Amended by 1971 c.200 §8; 1987 c.94 §145; 1987 c.579 §1; 2013 c.284 §1]

**554.030 Evidence of corporate existence.** The articles of incorporation or a certified copy of the one filed with the Secretary of State or county clerk shall be prima facie evidence of the existence of the corporation.

**554.040 Contents of articles.** The articles of incorporation shall specify:

(1) The duration of the corporation, if limited.

(2) The name assumed by the corporation and by which it shall be known, which name must include the words "district improvement company," except that:

(a) A corporation organized under ORS 554.005 to 554.340 but not organized for profit, or a corporation incorporated before March 4, 1937, under chapter 172, Oregon Laws 1911, which amends its articles to state that the corporation shall not operate for profit, may omit the word "company" from the name and adopt a name using the words "improvement district" combined with other appropriate words to designate the name of such district; and

(b) A district converted to a corporation under ORS 554.380 shall replace the word "district" with the words "improvement company."

(3) The particular land to be improved by the works of the corporation, describing the land by legal subdivisions so far as possible and otherwise by tracts or lots of duly platted land or by metes and bounds, with the acreage thereof and the names of the respective owners as shown by the records of the county, and the total number of acres.

(4) In general but clear language, the purpose and intent of the corporation, and describe in general language the proposed plan of improvement whether for one or more of the purposes named in ORS 554.020.

(5) The number of directors and the names of those first holding such office, and the mode and times of the election of their successors in office.

(6) The location of the principal office of the corporation for the transaction of business, which must be in a county where at least a portion of the land to be improved is situated, and the mailing address, if different.

(7) Whether or not such corporation is organized for profit to the corporation or to its members.

(8) The initial registered agent and the address, including any street and number, of the registered office of the corporation.

(9) The name and address of each incorporator.

(10) The method of allocating votes to the membership, which may be based on:

(a) One vote for each acre of land owned; or

(b) One vote for each parcel as defined in the bylaws of the corporation, regardless of the number of acres owned. [Amended by 1983 c.717 §31; 1987 c.94 §146; 1995 c.233 §1; 2013 c.284 §6]

**554.050** [Repealed by 2013 c.284 §5]

**554.060 Challenge to validity of organization; effect of defects or omissions.** (1) No action, suit or proceeding shall be maintained for the purpose of questioning the sufficiency or correctness of any statement within the articles of incorporation when the provisions of ORS 554.005 to 554.340 with respect thereto have been substantially complied with.

(2) No error in the description of any tract or parcel of land included in such district or in naming the owner thereof shall affect the incorporation or relieve the land from the same unless the owner has been materially prejudiced, misled or injured thereby, and has instituted proceedings because of same within three months after actual notice in any manner brought to the owner. Notwithstanding any error, defect or omission in the articles of incorporation in such case, the corporation is hereby declared to be a legally organized corporation as to all such owners. [Amended by 1987 c.94 §147; 2013 c.284 §7]

**554.070 Membership; meetings; voting; proxies; voting trusts; quorum; removal of officers.** (1) Every owner of land described in the articles of incorporation is a member of the corporation, and membership is lost or gained through a sale or purchase of any of said land, as the case may be, by which the legal title is transferred. In case of sale or purchase under contract without transfer of legal title, the parties may agree with respect to voting such land as provided in the bylaws, and unless so agreed and determined pursuant thereto the holder of the legal title shall be entitled to vote. Corporate owners may by resolution of their board of directors appoint and designate a proxy as provided by the bylaws.

(2) At all meetings of the members of the corporation each member who attends in person, or by proxy appointed in writing, shall be entitled to vote as provided in the articles of incorporation. In the absence of a provision in the articles of incorporation, each member shall be entitled to vote the amount of acreage of the land owned by the member on the basis of one vote for each acre of land. Nothing in the laws of Oregon shall be construed to prevent any owners of land, or members of the corporation, from joining in a voting trust or from giving a

proxy or power of attorney to vote such membership for a term of years or until the happening or performance of a named contingency or condition. Except as provided in subsection (4) of this section or ORS 554.560, members representing a majority of the votes entitled to be cast shall be necessary to constitute a quorum for the transaction of business at all landowners' meetings, and a majority vote shall govern in all cases except as otherwise specially provided by law.

(3) At any meeting of the members of the corporation any officer may be removed and another elected in the place of the officer. There must be at least one regular meeting of the members in each year, to be fixed by the bylaws, and there shall be such other meetings as may be called under the provisions of the bylaws.

(4) When members representing a majority of the votes entitled to be cast or their appointed proxies do not attend the regular annual meeting of the members of the corporation or any other meeting called under the bylaws, the directors of the corporation may call another meeting of the members on a date that is not later than 60 days after the date of the meeting at which a quorum was not obtained. At such subsequent meeting, members representing 25 percent or more of the votes entitled to be cast shall constitute a quorum for the transaction of business. [Amended by 1985 c.466 §1; 1995 c.233 §2]

**554.080 Corporate existence; powers of corporation.** When the articles of incorporation are filed by the Secretary of State, the corporation is deemed to be established and has the power:

- (1) To sue and be sued.
- (2) To contract and be contracted with.
- (3) To have, use and alter a corporate seal.
- (4) To purchase, condemn by the power of eminent domain, possess and dispose of real and personal property as necessary and convenient to carry out the purposes of the corporation, and to take, hold, possess and dispose of all real and personal property donated to the corporation to carry out the purposes of the corporation.
- (5) To appoint subordinate officers, employees and agents as the corporation requires, and prescribe their duties and compensation.
- (6) To make, establish or amend bylaws, rules and regulations, not inconsistent with the laws of the state, the articles of incorporation, or the covenants and provisions of the landowners' notice provided in ORS 554.170 to 554.190, if any is filed, prescribing

the manner and mode of conducting the business of the corporation, distributing and using water in domestic use, irrigating land, using any drainage or flood control works, collecting and treating sewage and enforcing the collection of rates, tolls, charges, fees, fines and assessments. Bylaws, rules and regulations must be ratified by two-thirds of the votes of the members of the corporation.

(7) To prescribe, fix, make and charge and collect from the water users or those who receive the benefits of the corporation, rates, tolls, fees, fines and charges for maintenance and operation of the corporation, use of water or for the works of the corporation, or for violation of any of the bylaws, rules and regulations of the corporation. The rates, tolls, fines, fees and charges shall be a lien on the crops produced as prescribed in ORS 545.275, and may be a lien upon the land to which the water was furnished, or benefit was provided, as prescribed in ORS 554.135.

(8) To make, levy and collect assessments either ratably or in proportion to the benefits received as provided by the bylaws or recorded landowners' notice, upon the lands described in the articles of incorporation to fund the corporation for any purpose, including maintenance and operation, estimated delinquencies on assessments, principal and interest of maturing indebtedness, and reserve necessary or provided by the bylaws, subject to the limitations, restrictions and provisions of the recorded landowners' notice. [Amended by 1987 c.94 §148; 1991 c.459 §432d; 2013 c.284 §2]

**554.082 Registered office and registered agent.** (1) A corporation shall continuously maintain in this state a registered agent and registered office that may be, but need not be, the same as any of the corporation's places of business. The registered office must be located at a physical street address where process may be personally served on the registered agent. The registered office may not be a commercial mail receiving agency, a mail forwarding business or a virtual office.

(2) A registered agent must be:

- (a) An individual who resides in this state and whose business office is identical to the registered office;
- (b) A domestic corporation or domestic nonprofit corporation, the business office of which is identical to the registered office; or
- (c) A foreign corporation or foreign nonprofit corporation that is authorized to transact business in this state, the business office of which is identical to the registered office. [1993 c.190 §19; 2001 c.315 §56; 2013 c.158 §37; 2017 c.705 §33]

**554.084 Change of registered office or registered agent.** (1) A corporation may change its registered office or registered agent by delivering to the Office of the Secretary of State for filing a statement of change that sets forth:

- (a) The name of the corporation;
- (b) If the registered office is to be changed, the address including street and number of the new registered office;
- (c) If the registered agent is to be changed, the name of the new registered agent and that the new agent has consented to the appointment; and
- (d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of the agent's business office, the registered agent shall change the street address of the registered office of the corporation for which the agent is the registered agent by notifying the corporation in writing of the change and signing, either manually or in facsimile, and delivering to the Office of the Secretary of State a statement that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

(3) The filing of the statement by the Secretary of State shall terminate the existing registered office or agent, or both, on the effective date of the filing and establish the newly appointed registered office or agent, or both, as that of the corporation. [1993 c.190 §20]

**554.086 Resignation of registered agent.** (1) A registered agent may resign as agent upon delivering a signed statement to the Office of the Secretary of State and giving notice in the form of a copy of the statement to the corporation. The statement may include a statement that the registered office is also discontinued.

(2) Upon delivery of the signed statement, the Secretary of State shall file the resignation statement. The copy of the statement given to the corporation under subsection (1) of this section shall be addressed to the corporation at the corporation's mailing address or the corporation's principal office as shown by the records of the Office of the Secretary of State. For purposes of this subsection, written notice is effective at the earliest of the following:

- (a) When received;
- (b) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed; or

(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested and the receipt is signed by or on behalf of the addressee.

(3) The agency appointment is terminated and the registered office discontinued, if so provided, on the 31st day after the date on which the statement was filed by the Secretary of State, unless the corporation shall sooner appoint a successor registered agent as provided in ORS 554.082, thereby terminating the capacity of such agent. [1993 c.190 §21]

**554.088 Service on corporation.** (1) The registered agent appointed by a corporation shall be an agent of the corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

(2) The Secretary of State shall be an agent of a corporation including a dissolved corporation upon whom any such process, notice or demand may be served whenever the corporation fails to appoint or maintain a registered agent in this state or whenever the corporation's registered agent cannot with reasonable diligence be found at the registered office.

(3) Service shall be made on the Secretary of State by:

(a) Serving the Secretary of State or a clerk on duty at the office a copy of the process, notice or demand, with any papers required by law to be delivered in connection with the service, and the required fee for each party being served or by mailing to the office a copy of the process, notice or demand and the required fee for each party being served by certified or registered mail;

(b) Transmittal by the person instituting the proceedings of notice of the service on the Secretary of State and copy of the process, notice or demand and accompanying papers to the corporation being served by certified or registered mail:

(A) At the last registered office of the corporation as shown by the records on file in the Office of the Secretary of State; and

(B) At such address the use of which the person initiating the proceedings knows or, on the basis of reasonable inquiry, has reason to believe is most likely to result in actual notice; and

(c) Filing with the appropriate court or other body, as part of the return of service, the return receipt of mailing and an affidavit of the person initiating the proceedings stating that this section has been complied with.

(4) The Secretary of State shall keep a record of all processes, notices and demands

served upon the Secretary of State under this section.

(5) After completion of initial service upon the Secretary of State, no additional documents need be served upon the Secretary of State to maintain jurisdiction in the same proceeding or to give notice of any motion or provisional process.

(6) Nothing contained in this section shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law, or enlarge the purposes for which service on the Secretary of State is permitted where such purposes are limited by other provisions of law. [1993 c.190 §22]

**554.090 Directors; qualifications; president; seal; secretary-treasurer; exercise of corporate powers; indemnification.** (1) No person is eligible to the office of director unless the person is a member of the corporation. The directors named in the articles of incorporation and thereafter when elected by the members shall promptly qualify and thereupon meet and organize and elect one of their number president who shall preside at their meetings and at the meetings of the members. The board shall adopt a seal with a suitable design.

(2) The board shall elect a secretary who shall keep a fair and correct record of all its proceedings and the official business of the corporation, which shall be open to the inspection of all members as well as to all other interested persons. The secretary may or may not be a member of the board and shall hold the office of treasurer of the corporation and shall receive and receipt for all moneys received.

(3) From the first meeting of the directors, the powers vested in the corporation shall be exercised by them or by their officers or agents under their direction except as otherwise specially provided by law.

(4) Subject to ORS 554.150, the directors and officers of any corporation incorporated under this chapter shall be entitled to indemnification in the same manner as allowed under ORS 65.387 to 65.414. [Amended by 1969 c.345 §17; 1995 c.233 §3]

**554.100 Oath of office.** Each director shall, before entering upon official duties, take and subscribe to an oath before some officer authorized by law to administer oaths, that the director will honestly, faithfully and impartially perform the duties devolving upon the director in office as director, and that the director will not neglect any of the duties imposed upon the director by law.

**554.110 Powers of directors.** The board of directors shall have full power and authority to:

(1) Build, construct and complete any works and improvements needed to carry out the plan of improvement of the lands described in the articles of incorporation.

(2) In the name of the corporation, make all necessary water filings and appropriations of water for every purpose of the articles of incorporation.

(3) Operate and maintain such works as are necessary, convenient or beneficial for said purposes.

(4) Hire employees as may be required, and purchase machinery, equipment and supplies.

(5) Generally contract with reference to any of said matters as the board may determine for the purposes and within the scope of the powers granted in ORS 554.005 to 554.340 for improving the land. [Amended by 1995 c.79 §307]

**554.120 Records of proceedings of directors; lien docket; deposit of moneys; segregation of funds; accounting; warrant and bond register.** (1) The board of directors shall cause to be kept a well-bound book entitled "Records of Proceedings of Board of Directors," in which shall be recorded minutes of all meetings, proceedings, certificates, bonds, and any and all corporate acts, which records shall be at all times open to the inspection of anyone interested, whether members or creditors.

(2) A lien docket shall also be provided, in which, as to every tract of each owner, all assessments or liens shall be charged and all payments shall be credited, and in which interest on any assessments in arrears shall be charged at time of payment of any installment, to the end that such record shall show the true condition of all liens and the amount thereof.

(3) Except as otherwise provided by ORS 554.160 (2), all money of the corporation shall be deposited with a convenient insured institution or trust company, as those terms are defined in ORS 706.008, in the name of the corporation, and all funds provided to be segregated and held separate shall be so kept, and an accounting of each of such funds upon the books of the corporation shall be correctly kept.

(4) A warrant register shall be provided in which shall be separately kept a record of all warrants issued, the number, date and amount thereof with the name of payee, and the date paid, showing principal and interest separately. The corporation shall keep a register of all bonds with a description thereof, the date thereof and when issued, and gen-

erally such a record as shall show all outstanding bonds separately of the several issues and kinds of payments. [Amended by 1969 c.694 §46; 1997 c.631 §492; 2001 c.215 §29]

**554.130 Assessments; certification; collections; lien; foreclosure; service charges; disposition of proceeds.** (1) The board of directors shall each year on or before a day fixed in the bylaws of the corporation, and if not therein fixed then on or before September 1 of each year, make a computation of the whole amount of money to be raised by the corporation through assessments for the ensuing year for any purposes whatsoever, including maintenance and operation, estimated delinquencies on assessments, principal and interest of indebtedness maturing, and such reserves as may be necessary or provided by the bylaws of the corporation.

(2) This amount when so determined by the board shall be an assessment upon all the land described in the articles of incorporation and apportioned to each and every acre or parcel thereof as provided in the bylaws of the corporation or the recorded landowners' notice subject to its limitations, restrictions and provisions. Unless the board requires the assessment to be paid in advance of the delivery of water, the assessments shall become due and payable in quarter-annual installments, the first of which shall become due three months after the date fixed for the assessment in the bylaws, and if not fixed therein such assessment shall become due within three months after September 1 of each year, and shall bear interest at the rate of two-thirds of one percent per month from the maturity of each installment until paid. Any unpaid assessment and the lien thereof as provided in this section shall be delinquent after the date of maturity of the last installment thereof and may be enforced and foreclosed. Upon the sale of any lands on such foreclosure the corporation or any member thereof or any creditor of the corporation or other person may be a bidder and purchaser. When the bylaws provide rates, tolls, charges, fees, fines and assessments for the use of water or for the use of any of the works of the corporation, the bylaws shall also provide for the time and manner of collection thereof.

(3) Notwithstanding the provisions of subsection (2) of this section, the board may certify the assessments including any interest thereon to the county assessor of the county in which the assessed lands lie. Such assessments, if certified and presented after July 15 and on or before the following July 15, shall be assessed against the premises serviced on the next assessment and tax roll prepared after July 15 by the tax assessor of the county in which the corporation is situ-

ated. The assessments shall thereupon be collected by the tax collector and distributed to the treasurer of the nonprofit corporation in the same manner as taxes and other charges on the assessment and tax roll are certified, assessed, collected and distributed.

(4) The treasurer of the nonprofit corporation shall keep the proceeds of the assessments in appropriate accounts depending upon the purpose of the assessments, and disbursements for the expenses of the corporation shall be paid out of the appropriate account. [Amended by 1971 c.436 §1; 1973 c.93 §1; 1983 c.652 §1; 1995 c.233 §4; 1997 c.819 §15]

**554.135 Alternative method for collecting assessments.** (1) In lieu of the method of levy and assessment provided for in ORS 554.130, the board of directors may provide in the bylaws or by resolution for the billing and collection of the rates, tolls, fees, fines and charges of the corporation in the manner provided in this section. The provision in the bylaws or the resolution may apply to rates, tolls, fees, fines and charges for the operation and maintenance of the corporation, for the use of water, or for the use of any of the works of the corporation, or for violation of any of the bylaws, rules and regulations of the corporation, or for principal and interest of maturing indebtedness.

(2) The bylaws or the resolution establishing the rates, tolls, fees, fines and charges shall fix the time when they shall become due and payable, and shall also fix a time after which they shall become delinquent, which time shall be any time within one year from the due date.

(3) If any rates, tolls, fees, fines or charges remain unpaid after the delinquency date, the corporation may file a notice of lien and collect the delinquent charges in the manner provided for collection of incurred charges of an irrigation district under ORS 545.494, 545.496, 545.498, 545.502, 545.504 and 545.506.

(4) If rates, tolls, fees, fines or charges, or any installment thereof, are not paid when due, interest shall be charged and collected on the past due amount at the rate of one and one-half percent per month, or fraction of a month, until paid. [1991 c.459 §432c; 2013 c.284 §3]

**554.140 Directors' duty to institute proceedings to enforce lien; attorney fees.**

(1) The board of directors shall institute proceedings to enforce the lien of any assessment when the last installment of such assessment is delinquent for more than three months. If the board fails to promptly institute and diligently prosecute in good faith proceedings for enforcement of a lien after that time and any member or creditor of the

corporation shall give written notice to the board of such delinquency and request that such procedure be instituted and the board neglects for 30 days thereafter in good faith to bring suit to enforce the lien, the members of the board so failing shall each be jointly and severally liable to the corporation in the amount of the delinquent assessment.

(2) Any member or creditor of the corporation may bring an action on behalf of the corporation in its name against any such directors to enforce the payment thereof; however, no directors shall be personally liable for payment of a delinquent assessment if:

(a) The record of proceedings of a duly constituted meeting of the board held prior to the commencement of such action show either that such director presented or voted in favor of a resolution presented and voted upon by the board calling for the prompt commencement of such enforcement proceedings; or

(b) If no meeting of the board was held between the time prescribed for enforcement of a delinquent assessment lien and the commencement of an action against the directors by a member or creditor of the corporation, that such director duly requested a special meeting of the board of directors be called for the purpose of adopting such a resolution and that the proposed resolution was submitted with the request.

(3) In any legal proceeding instituted by the board of directors of the corporation as provided in this section, the court may award to the prevailing party, in addition to the costs and disbursements of such proceedings, a reasonable attorney fee at trial and on appeal. [Amended by 1963 c.549 §1; 1981 c.897 §65; 1995 c.618 §87]

#### **554.150 Action to compel assessment.**

If the board of directors neglects to make any assessment provided by ORS 554.005 to 554.340 for 30 days after the time when it is required to be made, any member of the corporation or any creditor thereof who is likely to be injured thereby may bring an action to compel the assessment to be made. In any such case the costs and expenses thereof may be assessed to the directors who were willfully negligent in failing to make the same and judgment rendered against them jointly and severally by the court in the same action. In such action the corporation and the directors shall be parties defendant. [Amended by 1979 c.284 §173]

**554.160 Assessments to provide funds to meet obligations; custody, disbursement and disposal of funds; general operating expenses.** (1) When any bonds or obligations of the corporation are payable from revenue of assessments pledged for the payment thereof, the board of directors shall,

at the time of creating such indebtedness or issuing such bonds or obligations or at any time thereafter when assessments therefor are made, designate such fund by appropriate name and shall at the time of making each assessment thereafter determine the amount and portion of the assessment in dollars which is required to be then made for revenue of such fund. In determining and levying every assessment provided in ORS 554.005 to 554.340 the board of directors shall provide separately for the amount to be so raised for each of the several funds so designated and named including the general operation and maintenance fund.

(2) The revenues apportioned to the funds pledged to the payment of bonds and obligations shall be separately held and kept and accounted for. The corporation shall disburse the funds only for the purposes for which levied until the indebtedness and obligation for which the assessment was made is fully paid with interest, whereupon the remainder shall be transferred to the general fund of the corporation for the payment of expenses of the corporation and its operation and maintenance. At the time of making assessments the board of directors shall first determine the estimated amount necessary for the expenses of operation and maintenance and then the several amounts for the respective funds, and determine that the whole amount thereof is within the limitations, restrictions and provisions of the landowners' notice provided for in ORS 554.170 to 554.190. [Amended by 1969 c.694 §47; 2001 c.215 §30]

**554.170 Covenants by landowners; effect.** Owners of all the land described in the articles of incorporation or amendments thereto may at any time after the adoption of the plans and specifications for improving the land as provided in ORS 554.210, mutually covenant and agree for the purpose of binding their respective lands, as provided in ORS 554.180. Such covenants and agreements shall attach to and run with the land for the purpose of limiting, restricting and governing the conduct of the corporation. Such covenants, limitations, restrictions and agreements must not be inconsistent with the articles of incorporation, and after the recording of the same as provided in ORS 554.190 they may not be altered, amended, modified or rescinded during the life of such corporation without the consent of landowners representing two-thirds of the lands in the district and persons having an interest in such lands and the corporation and its creditors if any there are. After the recording, the bylaws of the corporation and every act and proceeding of such corporation must be in accordance with and subject to the limitations, restrictions and provisions thereof. [Amended by 1965 c.427 §1]



**554.180 Landowners' notice; contents.**

(1) If the owners of all the land desire to enter into such covenant with respect to matters hereinafter provided they shall make, subscribe and acknowledge before some person authorized to take acknowledgment of deeds, a notice to whom it may concern, which notice shall contain:

(a) A description of the land with the same particularity as is provided for in the articles of incorporation.

(b) A statement that the owners of the described land have incorporated themselves under the corporate name of (stating such name), and that the land will be improved as described in the articles of incorporation of record in the Office of the Secretary of State and in the office where deeds and other instruments affecting the title to real property are recorded in the county where the land is situated.

(c) A statement either that the land shall be subject to any indebtedness incurred by the corporation, or that the land shall be subject to the lien of any assessments thereon by the corporation for its works and the improvement of the land as described in the articles of incorporation under the provisions of ORS 554.005 to 554.340.

(2) If all the landowners desire, they may therein further limit, restrict and provide with respect to said matters and the conduct of the corporation with regard to the described land by mutually determining and stating therein any or all of the following:

(a) Whether all the land is uniformly and in like amount per acre or per parcel thereof benefited by the improvements; and if not so benefited they may by agreement determine and apportion the relative amount of benefits per acre or per parcel between the several parcels and portions describing the same with the same particularity as is provided for the articles of incorporation.

(b) The whole amount of benefit per acre or per parcel which will accrue from the works and improvement proposed in the articles of incorporation. If the lands are not uniformly benefited they may determine and appraise the benefits as to the several parcels and portions of all of the land and in that case particularly describe the same and state the amount of benefits accruing to the respective portions and parcels thereof per acre or per parcel in dollars, which shall in such case be the maximum amount per acre or per parcel as a lien thereon for any purpose of the corporation other than for operation and maintenance.

(c) The whole amount in dollars of annual benefits which will accrue per acre or per parcel from the works and improvement

described in the articles of incorporation. If it has been determined that all the land is not so uniformly and equally benefited they shall in such case determine and state the amount in dollars of the annual benefit per acre or per parcel of the several parcels and portions of all the land particularly describing the same, which amount of annual benefits so determined shall be the maximum amount of assessments by the corporation per acre or per parcel made and apportioned according to such determination as a lien upon the land payable per annum inclusive of the operation and maintenance assessments, and the assessment of any land in any year in excess of these annual benefits is to the extent of such excess void. [Amended by 1987 c.94 §149; 1995 c.233 §5]

**554.190 Recording notice; effect; lien on land; priority.**

(1) The notice shall be recorded in the office where deeds and other instruments affecting the title to real property are recorded in the county where the land is situated. From the recording thereof such notice shall be a covenant to and with the corporation and its members and creditors, attaching to and running with the described land and every part thereof, granting the rights, privileges and liens as in ORS 554.005 to 554.340 provided and in the notice stated with respect thereto. In addition, such recording shall constitute prior approval of the members of the corporation of those actions of the board of directors obligating the corporation as authorized in ORS 554.220 to 554.280.

(2) If it is stated in the notice that the land described in the articles of incorporation and the notice shall be subject to any indebtedness incurred by the corporation, all debts and obligations of the corporation theretofore and thereafter created shall be a lien upon the land described in the notice prior to every other lien attaching to the land subsequent to the time of recording of the notice, except state, county and school taxes, whether such debt or obligation of the corporation is in existence at the time the latter lien attaches or is created afterward. Such lien shall not be personal but shall be an obligation upon the land and run with the land.

(3) If, however, the landowners state in the notice that the land described in the articles of incorporation shall be subject to the lien of assessments by such corporation for the works and improvement of the land, then all the debts and obligations of the corporation shall be a direct obligation of the corporation with the irrevocable right of the creditors and obligees to have assessments made by the corporation for the payment of such debts and obligations pursuant to the provisions of ORS 554.005 to 554.340 and

within the limitations, restrictions and provisions of the landowners' notice. In such case every debt and obligation of the corporation created within the limitations and restrictions of the landowners' notice is with the implied or express covenant that the corporation will make the assessments necessary to be made for the payment thereof as same may mature and be payable, and will prorate and apportion the same to all the described lands in accordance with the provisions of ORS 554.005 to 554.340 and the notice. Every assessment made pursuant to this subsection and the landowners' notice by the corporation and prorated and apportioned pursuant to such notice within the limitations, restrictions and provisions thereof shall be a lien upon the acreage of such land as so assessed by the corporation, and the lien shall relate back, vest and attach thereto as of the time of filing for record of the landowners' notice. Every other lien, right, title, interest and estate attaching, vesting or in any manner accruing or acquired subsequent to the filing of such landowners' notice, whether before or after such assessment, except state, county and school taxes, shall be inferior and subject to the lien of such assessment. [Amended by 1991 c.459 §432e]

**554.200 Incurring indebtedness before notice recorded; scope of notice.** When any corporation is organized pursuant to ORS 554.005 to 554.340, the board of directors and the corporation may not lawfully incur any indebtedness or obligation of such corporation, except as otherwise provided in ORS 554.005 to 554.340, before the landowners' notice has been executed and recorded. When the notice is so recorded, it shall be notice to the world of the facts therein stated. It shall not be necessary, for the purpose of the lien of any assessment or indebtedness of the corporation upon any of the lands described therein, to file or record in the office where deeds and other instruments affecting the title to real property are recorded, any resolution of the corporation or notice of assessment, indebtedness or lien; but as to all matters upon the recording of the landowners' notice every person interested in any of the land therein described or dealing with respect thereto is put upon inquiry respecting the same and shall ascertain from the corporation the extent and amount of such indebtedness, assessment and lien upon the land. [Amended by 1987 c.158 §117]

**554.210 Plans and specifications; how adopted.** (1) Owners of all the land described in the articles of incorporation may, by unanimous agreement in writing, subscribed and acknowledged by them:

(a) Cause to be prepared and approve and adopt detailed plans and specifications for the works and improving of the lands under the plan described in the articles of incorporation;

(b) Make a report upon the same, including an estimate of the cost; and

(c) File the plans, specifications and report with the secretary of the corporation.

(2) When the owners have acted pursuant to subsection (1) of this section:

(a) The board of directors shall adopt a resolution briefly reciting the facts of the plans, specifications and report and accepting, approving and adopting them as the plan of improvement of the land described in the articles of incorporation.

(b) The plans, and specifications and report shall be the plans of the corporation for the works and improvement of the land.

(3) If the landowners do not adopt plans, specifications and a report thereon by unanimous consent, the plans, specifications and report may be adopted by resolution at a meeting of members as provided in subsections (4) to (6) of this section.

(4) The board of directors at any meeting of the board may adopt a resolution:

(a) Designating and authorizing the expenditures for preliminary investigation and report upon the plans and cost of works and construction, or repair or reconstruction of the same, or purchasing or acquiring any property, ditches, dikes, levees, plants, improvements, easements, rights of way, water rights, or other things necessary, advantageous or beneficial for improving the land under the plan described in the articles of incorporation; or

(b) Determining and declaring that such preliminary investigation and the expense thereof is unnecessary.

(5) Pursuant to action under subsection (4) of this section, the directors shall then:

(a) Secure a competent engineer, if necessary or desirable, who shall make the investigation, and prepare detailed plans and specifications and make a report upon the same, including an estimate of the cost thereof; or

(b) Prepare detailed plans and specifications and report with an estimate of the cost thereof without securing an engineer.

(6) The directors shall submit the detailed plans and specifications and report to a meeting of the members of the corporation for adoption. Adoption must in that case be made by resolution passed by a two-thirds vote of all the votes to which the members may be entitled.

(7) Notwithstanding subsections (1) to (6) of this section, when a corporation formed under ORS chapter 554 takes ownership of existing sanitary sewer facilities under ORS 554.020 (1)(b), the board of directors may adopt as detailed plans and specifications of the corporation the plans and specifications of the former owner or operator of the sanitary sewer facilities without securing a competent engineer. [Amended by 2013 c.284 §4]

**554.220 Bonds; denominations; interest; maturities; execution; coupons; amortized installment obligations.** (1) At any time after recording the landowners' notice as provided in ORS 554.190 and adoption of a plan for improvement of the land described in the articles of incorporation as provided in ORS 554.210, the board of directors may, if in their judgment it seems best, and subject to the limitations, restrictions and provisions of the landowners' notice, issue bonds or other obligations of the corporation necessary or convenient for improving the lands, including the refunding of outstanding bonds and any indebtedness of the corporation.

(2) The bonds shall be in such denominations as the board may determine, and bear interest from date at a rate determined by the board, payable semiannually, to mature at intervals to be determined by the board, both principal and interest being payable at some convenient insured institution or trust company, as those terms are defined in ORS 706.008, that is named in the bonds. The bonds shall be signed by the president of the corporation and attested with the seal of the corporation and the signature of the secretary. They may be issued so as to mature serially in annual amounts so as to be approximately equal, principal and interest, and may be issued so as to include a sum sufficient to pay the first four years' interest, or less, to accrue on the bonds, and be numbered serially in the order in which they mature. Each such bond shall have interest coupons attached bearing the serial number of the bond, which coupons shall be serially numbered in the order of maturity.

(3) If the directors so determine, they may issue for the purposes stated in this section, or as provided in ORS 554.270 and 554.280, one or more amortized installment obligations of the corporation constituting a designated series of such bonds as particularly described in ORS 554.280, all of which obligations shall be evenly and ratably paid as the attached installments mature as determined by the board of directors and as described in ORS 554.280. The latter bonds and coupons shall be executed and attested as provided by subsections (1) and (2) of this section for bonds of the corporation. [Amended

by 1969 c.694 §48; 1977 c.188 §10; 1981 c.94 §49; 1981 c.526 §7; 1997 c.631 §493; 2001 c.215 §31]

**554.230 Bonds; recitals; payment; liability of land.** (1) Bonds or obligations of the corporation shall refer therein to ORS 554.005 to 554.340 and to the resolution of the board of directors authorizing the same, and shall briefly recite the purpose for which issued. If they constitute a lien on the land described in the articles of incorporation they shall so state therein; otherwise they shall state that they and the interest thereon are payable by the revenue derived from the annual assessments by the corporation upon the land described in the articles of incorporation and the landowners' notice, which assessments are lien-apportioned to every acre of such land and assessed for a fund pledged for the payment thereof, and that the corporation covenants to and with the holder thereof to make such assessments as required by the laws of Oregon and to pay the obligation (or bond) at the maturity therein provided, and further that the assessment required to be made for the payment thereof at maturity will not together with all other assessments required for payment of the debts and obligations, operation and maintenance, and other charges, exceed the limitations prescribed in the landowners' notice.

(2) Upon the issue of any bond or obligation payable by revenue derived from assessment by the corporation upon the land for a fund designated in the resolution authorizing such issue, the land described in the articles of incorporation and the landowners' recorded notice shall thereafter be and remain liable to be assessed for such payments as provided in and subject to the provisions of ORS 554.005 to 554.340.

**554.240 Retirement of bonds; conditions of sale; resolution authorizing bond issue; surrender of bonds in payment of assessments; debts not to exceed assessments or benefits.** (1) The corporation may provide that bonds or any of them may be retired at the option of the corporation on any interest-paying date after the expiration of a time determined and fixed therein.

(2) Bonds and obligations shall not be sold for less than 90 percent of their face value, and may be issued all at the same time or in such amounts as the board deems necessary. Before issuing any bonds or obligations the board shall first pass a resolution authorizing the same and provide the whole amount thereof and the purpose of same and if payable from a separate fund shall designate the same. The resolution shall prescribe the form and substance of the bonds or obligations and provide with respect thereto the matters and things otherwise prescribed therefor in ORS 554.005 to 554.340.

(3) When any bond, obligation or coupon is payable from revenue by assessment to constitute a fund for the payment thereof, any such bond, obligation or coupon may at or after its maturity be surrendered to the corporation in payment of such assessment, but not in payment of any assessment for operation and maintenance expense or any other fund separately pledged for payment of other obligations, bonds or debts of the corporation. Bonds and obligations received in payment of any obligation shall be numbered consecutively and the lowest numbers paid off first.

(4) No obligations of the corporation shall be issued by the board unless it is determined that the annual assessment which will be required for the payment thereof as same matures together with other assessments which will be necessary for maintenance and operation expense and other purposes will not exceed in the whole the maximum amount of annual benefits which may be assessed and apportioned in any one year. Nor shall debts be incurred and obligations issued the aggregate amount of which will exceed the limitation determined by the determined benefits as stated in the recorded landowners' notice.

**554.250 Refunding bonds.** The board of directors may issue bonds for the purpose of refunding or satisfying any of the bonded or other indebtedness of the corporation, whether or not due, or which has or may become payable at the option of the corporation, or by consent of the holders of the indebtedness, or by any lawful means, whether such bonded or other indebtedness is now existing or may hereafter be created, and there are not funds in the treasury of the corporation available for the payment of the same and unpaid interest thereon.

**554.260 Contracts with governmental agencies or others for financial assistance or cooperative action.** Whenever the board of directors of the corporation shall by resolution determine it to be for the best interest of the corporation, the board may enter into contract with the United States or its duly constituted agencies, or any municipal or other corporation of Oregon, or any person, for the purpose of procuring or receiving a loan or financial assistance for any works or improvement of the corporation, or for the maintenance and operation of any works or improvement of the corporation or of such other party, or for the purpose of acquiring jointly or controlling and managing in conjunction with such other party any works or improvement or any easement or right of way necessary for such improvement or work; and may bind the corporation for

the maintenance, support and operation of the whole or any part thereof after construction of the same; and may agree that any works or improvement of the United States or any constituted governmental agency embracing any part of the works or improvement of the corporation or serving any purpose thereof shall be subject to the control, rules and regulations of the United States or any of its constituted agencies or officers as any law or regulation of the United States may require; and may agree to protect the United States and its constituted governmental agencies or officers from any loss or damage by reason of any works or improvement for or in behalf of the corporation as any law may require as a condition thereof; and may contract with the United States to furnish without cost such easements and rights of way and other property as shall be necessary for the proposed improvement and works of the corporation and their maintenance and operation, as required or provided by law as a condition thereof.

**554.270 Purchase or lease of works and water rights; provision as to payment; serial coupon obligations.** (1) Whenever the board of directors of the corporation shall by resolution determine that it is to the best interest of the corporation, the board may enter into contracts for the purchase or option to purchase or lease, upon such terms as it determines to the best interest of the corporation, any ditch, works, improvement, easement, right of way, water right or other thing required or advantageous to the corporation for the works and improvement of the land described in the articles of incorporation within the scope of the purposes therein named.

(2) In any such case the board may by such contract provide for spreading the payments over such period as may be agreed upon and may issue therefor serial installment coupon obligations in such number and denominations as it may determine, inclusive of interest at such rate as the board may provide on all unpaid assessments, together with an amount sufficient to pay a proportionate part of the cost of administering the bond assessment program and issuing the bonds authorized under ORS 554.220 and 554.250, including, but not limited to, legal, printing and consultant's fees, such amount to be determined by the governing body. The installment coupons shall be of such amount and stated maturity as will pay and retire all installment coupon obligations of such designated series evenly, justly and ratably from year to year at the same time, and shall be general obligations of the corporation, payable from a fund as provided in ORS 554.280. [Amended by 1981 c.322 §9]

**554.275 Activity of corporation as urban service.** The activity of a corporation for drainage or flood control organized under ORS 554.005 to 554.340 is deemed to be an urban service, as defined in ORS 195.065, if the corporation:

(1) Is located in a county that has a population greater than 700,000; and

(2) Operates a flood control project as defined in ORS 547.057 located within the urban growth boundary established by Metro or within the incorporated boundary of a city. [2015 c.544 §16]

**Note:** 554.275 was added to and made a part of 554.005 to 554.340 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**554.280 Resolution for serial coupon obligations; maturities; interest; retirement; recitals; fund for payment; assessments.** (1) For the purpose stated in ORS 554.270, the board of directors shall by resolution determine and declare that the same is to the best interest of the corporation; briefly describe the purpose and object thereof and the amount of money required therefor; provide for, authorize and direct issuing the installment coupon obligations, describing and fixing the number of such obligations constituting the series and the denominations thereof; and shall adopt and prescribe the form and substance of such obligations. Each obligation shall bear the same series designation and be separately serially numbered, which series designation and serial number shall likewise appear upon each installment coupon attached. Coupons of each obligation shall be serially numbered in the order of their maturity and shall be so payable at a place designated in the bonds.

(2) Interest at a rate determined by the board may be included and amortized for the retirement of both principal and interest as provided in the resolution and in this section. Every obligation shall recite that it is issued pursuant to such resolution and payable from a fund derived from annual assessments of the lands described in the articles of incorporation for such purpose, the proceeds of which are pledged for the payment, and that the corporation covenants to levy such assessments according to law and the resolution in amount sufficient, inclusive of estimated delinquencies, to pay the installment coupons thereto attached as they mature.

(3) The resolution shall appropriately designate the fund. The board of directors shall thereafter on or before the time fixed in the bylaws determine and assess the amount necessary to be assessed at such time for payment of the installment coupons

as they mature. Proceeds from such assessment shall constitute a fund which is pledged for payment of such obligations. The treasurer shall segregate and keep separate the proceeds of every assessment for such funds, and shall deposit the same in an insured institution as defined in ORS 706.008, in a separate account designating such fund. The district treasurer shall not disburse the same except as provided in this section. [Amended by 1969 c.694 §49; 1977 c.188 §11; 1981 c.94 §50; 1981 c.526 §8; 1997 c.631 §494; 2001 c.215 §32]

**554.290 Warrants to pay claims; interest; assessments to pay warrants; limitation on amount of warrants.** All claims against the corporation shall be paid by warrants drawn on the treasurer of the corporation and signed by the president and secretary of the board of directors. If any warrant is not paid when presented to the treasurer of the board of directors, because of lack of funds in the treasury, that fact shall be indorsed on the warrant and the warrant shall draw interest thereafter at a rate determined by the board until there is money in hand to pay the amount of the warrant and the interest then accumulated. No interest shall be allowed on warrants after sufficient funds are in the treasury to pay the indorsed warrants and interest. The secretary of the board shall give notice to the payee or other holder if known whenever sufficient funds are available to pay outstanding warrants. Warrants shall be numbered, drawn against the proper fund, and paid from such fund in the order of issuance. The board of directors shall levy an assessment each year of sufficient amount of money to pay the outstanding warrants. No warrants shall be issued the payment of which in the ensuing year inclusive of the assessments required for all other purposes will exceed the annual assessment limit fixed in the landowners' recorded notice, or the aggregate indebtedness of which with all other indebtedness for other purposes than operation and maintenance will exceed the total benefits to accrue to the land described in the articles of incorporation as stated in the recorded landowners' notice. [Amended by 1981 c.94 §51]

**554.300 Amendment of articles; approval by members; dissolution of corporation by members; inclusion of lands by irrigation, drainage or flood control district.** (1) The articles of incorporation of any corporation organized under ORS 554.005 to 554.340 may at any time be amended so as to include or exclude land as provided under ORS 554.510 to 554.590, include or delete matters described under ORS 554.040 or to make other amendments authorized under this chapter. An amendment shall not affect the date of priority of the lien of the corpo-

ration upon any land, but as to any new land included by an amendment the lien shall attach from the date of the recording of the amended notice. No land can be excluded until its proportionate share of all existing debts of the corporation has been paid.

(2) An amendment other than an amendment to include or exclude land shall be voted upon by the members at a regular meeting or a special meeting called for that purpose. The amendment shall require approval by two-thirds or more of the votes of the members present or by proxy. The articles of amendment shall be submitted to the Office of the Secretary of State for filing.

(3) In addition to the procedures available for administrative dissolution under ORS 554.302 and 554.305, any such corporation may be dissolved and its affairs terminated as provided in subsections (4) and (5) of this section. However, no corporation may be dissolved as provided in subsections (4) and (5) of this section before payment or release of all debts and obligations of the corporation, including every contract and agreement with the federal or the state government, or its or their constituted governmental authorities or agencies, or the assumption of its obligations by another with the consent of all parties.

(4) The board of directors of the corporation shall cause notice to be given of a meeting of the members, which notice shall contain a statement to the effect that the dissolution of the corporation will be considered at the meeting, and a brief statement of the reasons why dissolution is deemed advisable. The question of whether or not the corporation shall be dissolved may be presented at the meeting, and if two-thirds or more of the votes of the members present or by proxy are cast in favor of dissolution, the board shall proceed to dissolve the corporation and liquidate its affairs. The board shall constitute a board of trustees and as such shall dispose of the property of the corporation and pay its debts and obligations or procure releases thereof; provided, that in case an irrigation district, drainage district or flood control district is organized to include the lands in the corporation or any part thereof, the board of directors of the corporation, or the board of trustees in case the corporation has voted to dissolve, shall convey to such irrigation, drainage or flood control district any and all irrigation works or other property owned by such corporation, upon the assumption by the irrigation, drainage or flood control district of the obligations of the corporation.

(5) Upon completing the liquidation of the corporation, the trustees shall submit to the Office of the Secretary of State for filing

a statement that the corporation has been dissolved and its affairs liquidated. The trustees also shall send a true copy of the statement to the county clerk of the county in which the corporation had its principal place of business, that the corporation has been legally dissolved, and the clerk shall record the statement in the records of the office of the clerk. [Amended by 1971 c.200 §9; 1985 c.351 §23; 1987 c.94 §150; 1995 c.233 §6; 2013 c.284 §8]

**554.302 Dissolution of corporation by Secretary of State; conditions.** The Secretary of State may commence a proceeding under ORS 554.305 to administratively dissolve a corporation organized under the provisions of ORS 554.005 to 554.340 if:

(1) The corporation does not pay when due any fees imposed under ORS 554.016;

(2) The corporation does not deliver its annual report to the Secretary of State when due;

(3) The corporation is without a registered agent or registered office in this state;

(4) The corporation does not notify the Secretary of State that its registered agent or registered office has been changed, that its registered agent has resigned or that its registered office has been discontinued; or

(5) The corporation's period of duration stated in its articles of incorporation expires. [1987 c.94 §152; 1991 c.132 §34]

**554.305 Notice of grounds for dissolution; opportunity for correction; effect of dissolution.** (1) If the Secretary of State determines that one or more grounds exist under ORS 554.302 for dissolving a corporation organized under ORS 554.005 to 554.340, the Secretary of State shall give the corporation written notice of the determination.

(2) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State, within 45 days after notice is given, that each of the grounds that the Secretary of State has determined to be a ground for the dissolution does not exist, the Secretary of State shall dissolve the corporation.

(3) A corporation administratively dissolved continues the corporation's corporate existence but may not carry on any activities except activities that are necessary or appropriate to wind up and liquidate the corporation's business and affairs and notify claimants.

(4) The administrative dissolution of a corporation does not terminate the authority of the corporation's registered agent.

(5) A corporation involuntarily dissolved under this section continues to exist as a

body corporate for the purpose of performing or enforcing any debt or obligation under contract or agreement with the federal or state government, including the power to levy and collect assessments for performing or enforcing the debt or obligation. [1987 c.94 §153; 1991 c.132 §15; 1993 c.190 §23; 2013 c.159 §15]

**554.307 Reinstatement of dissolved corporation.** (1) A corporation that the Secretary of State administratively dissolved under ORS 554.305 may apply to the Secretary of State for reinstatement within five years from the date of dissolution. The application must state:

(a) The name of the corporation and the effective date of the corporation's administrative dissolution; and

(b) That the ground or grounds for dissolution either did not exist or have been eliminated.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section, that the information is correct and that the corporation's name satisfies the requirements of ORS 554.040 (2), the Secretary of State shall reinstate the corporation.

(3) When effective, the reinstatement relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on the corporation's business as if the administrative dissolution had never occurred.

(4) The Secretary of State may waive the requirement under subsection (1) of this section that the corporation apply for reinstatement within five years after the date of administrative dissolution if the corporation requests the waiver and provides evidence of the corporation's continued existence as an active concern during the period of administrative dissolution. [1987 c.94 §154; 1991 c.132 §16; 1995 c.215 §30; 2011 c.147 §27]

**554.309 Denial of reinstatement; appeal.** (1) If the Secretary of State denies a corporation's application for reinstatement following administrative dissolution, the Secretary of State shall give written notice to the corporation that explains the reason or reasons for denial.

(2) The corporation may appeal the denial of reinstatement pursuant to the provisions of ORS chapter 183. [1987 c.94 §155]

**554.310** [Amended by 1963 c.358 §1; 1969 c.694 §50; 1983 c.717 §32; 1985 c.351 §24; 1987 c.94 §151; repealed by 1991 c.132 §37]

**554.315 Annual report; contents; filing with Secretary of State; amended report.**

(1) Every corporation organized under ORS 554.005 to 554.340 shall submit to the Office of Secretary of State for filing an annual report that sets forth:

(a) The name of the corporation and the state or country under whose law it is incorporated;

(b) The street address of its registered office and the name of its registered agent at the office in this state;

(c) The address, including street and number and mailing address, if different, of its principal office;

(d) The names and addresses of the president and secretary of the corporation;

(e) The category of the classification code established by rule of the Secretary of State most closely designating the primary business activity of the corporation; and

(f) Additional identifying information that the Secretary of State may require by rule.

(2) The information contained in the annual report shall be current as of 30 days before the anniversary of the corporation. The report shall be submitted not later than the anniversary date and a copy of the report shall be filed with the county treasurer referred to in ORS 554.160.

(3) The Secretary of State shall mail the annual report form to any address shown for the corporation in the current records of the office. Failure of the corporation to receive the annual report form from the Secretary of State shall not relieve the corporation of its duty to deliver an annual report to the office as required by this section.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall notify the reporting corporation in writing and return the report to it for correction. The corporation must correct the error within 45 days after the Secretary of State gives such notice.

(5) The corporation may deliver to the office for filing an amendment to the annual report if a change in the information set forth in the annual report occurs after the report is delivered to the office for filing and before the next anniversary. This subsection applies only to a change that is not required to be made by an amendment to the articles of incorporation. The amendment to the annual report must set forth:

(a) The name of the corporation as shown on the records of the office; and

(b) The information as changed. [1991 c.132 §19]

**Note:** 554.315 was added to and made a part of ORS chapter 554 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**554.320 Exemption from taxation.** The property and income of a corporation organized under the provisions of ORS 554.005 to 554.340, but not for profit, or a corporation

organized under ORS 554.380, shall be exempt from taxation. The property and income of corporations which were incorporated under chapter 172, Oregon Laws 1911, and which amend their articles to state that the corporation shall not operate for profit shall also be exempt from taxation. [Amended by 1993 c.502 §5; 2013 c.284 §9]

**554.330** [Repealed by 1969 c.345 §20]

**554.340 Judicial determination of legality of proceedings.** (1) The board of directors of any corporation organized under the provisions of ORS 554.005 to 554.340, or of any corporation organized before March 4, 1937, which amends its articles and landowners' notice pursuant to the provisions of ORS 554.420, may, after adopting a resolution adjudging the same to be to the interest of the corporation and authorizing the same, by petition commence special proceedings in the circuit court of the county in which the office of the corporation is located, for the purpose of having a judicial examination and judgment of the court as to the regularity and legality:

(a) Of the proceedings in connection with the organization of the corporation; or

(b) Of the proceedings of the board and corporation providing for and authorizing the issue or sale of any bonds or obligations of the corporation whether or not theretofore sold or disposed of; or

(c) Of any action or proceeding for the inclusion or exclusion of land, or declaring the result of any election, or of any order levying any assessment or ordering the issue of any bonds or obligations for any purpose; or

(d) Of any plan of improvement of lands described in the articles of incorporation or of any proposed works and improvement for which bonds or obligations are authorized to be issued; or

(e) Of the authorization of any contract with the United States or any municipality or corporation or person, and as to the validity of such contract whether or not it has been executed.

(2) All or any of the proceedings of the corporation may be judicially examined and determined by the court in one proceeding as prayed in the petition. The provisions of ORS 548.110 shall apply to the proceedings provided in this section, and jurisdiction of the corporation shall be obtained in the manner provided for irrigation or drainage districts in that section.

(3) Any landowner or person having an estate or interest therein or member of the corporation or assessment payer may, within 30 days after the entry of any order or the performance of any of the acts or things

mentioned in subsection (1) of this section for which a contest is provided, bring a proceeding to determine the validity thereof, in which case the board of directors shall be made parties defendant and service of the summons shall be had upon the members of the board in the manner provided in ORS 548.115 for irrigation and drainage districts. The proceedings shall be tried and determined in the same manner as provided in subsections (1) and (2) of this section for proceedings brought by the corporation itself.

(4) No contest of any proceeding or matter or thing by this section provided to be had or done shall be had or maintained at any time or in any manner except as provided in this section.

**554.350 Service to lands outside district; findings; tax exemption.** (1) A corporation organized pursuant to ORS 554.005 to 554.340 may obligate itself by written contract to utilize the corporation's delivery system to deliver water for any beneficial use authorized under Oregon law on lands not described in its articles of incorporation if its board of directors by resolution determines that such action does not impair the corporation's ability to service the lands described in its articles of incorporation. In furtherance of such arrangement the corporation may:

(a) Adopt plans and specifications pursuant to ORS 554.210 for the construction of works and improvements on lands described in its articles of incorporation or on lands not described therein and thereafter to construct the same; and

(b) Pursuant to ORS 554.260, jointly acquire, control and manage any works, improvements, easement or right of way necessary to fulfill its contractual obligations and bind itself for the maintenance, support and operation of the whole or any part thereof.

(2) The delivery of water, the collection of charges for such delivery and the ownership of property pursuant to this section shall not subject the corporation's income and property, wherever located, to taxation if its property and income are otherwise exempt pursuant to ORS 554.320. [1979 c.180 §2; 1999 c.591 §1]

## REORGANIZATION OF DISTRICTS AS CORPORATIONS

**554.375 Dissolution of district and reorganization as corporation; meeting of landowners; approval of reorganization by landowners.** (1) The board of supervisors of a drainage district organized under ORS chapter 547 and existing prior to January 1, 1993, or the advisory board of a diking dis-



district organized under ORS chapter 551 and existing prior to January 1, 1993, may call a meeting of the owners of land situated in the district for the purpose of determining whether or not the district shall dissolve and reorganize as a corporation for drainage or flood control organized under this chapter.

(2) At least 10 days before the date of the meeting, notice of the meeting shall be given by publication in a newspaper of general circulation published in each county in which lands of the district are situated.

(3) The landowners, assembled at the place and time required by the notice, shall consider the question whether or not the district shall dissolve and reorganize as provided in this section. Each owner is entitled to one vote in person or by proxy for each acre of land owned by the owner in the district.

(4) Members representing more than 75 percent of the votes entitled to be cast within the district constitute a quorum for the transaction of business, including voting on the question of dissolution and reorganization, at the meeting.

(5) If members representing two-thirds or more of the votes entitled to be cast within the district approve dissolving the district and reorganizing the district as a corporation under this chapter, the board of supervisors or the advisory board of the district shall adopt an order so proclaiming and enter the order upon the minutes of the meeting. The chairperson of the meeting shall deliver to the Secretary of State a certified copy of the order proclaiming the results of the vote on the question of dissolution and reorganization.

(6) The board of supervisors or the advisory board of the district shall thereupon proceed with dissolution and reorganization as provided in ORS 554.380 and 554.385. [1993 c.502 §1; 1995 c.233 §7]

**554.380 Articles of incorporation for corporation formed from dissolved district; required provisions; membership.**

(1) After the vote held under ORS 554.375 and the delivery of a certified copy of the order proclaiming the results of the vote to the Secretary of State, the board of supervisors or the advisory board of the district shall proceed with the organization of a corporation for drainage or for flood control under this chapter. The corporation shall be organized as provided in this chapter except as provided otherwise in this section.

(2) The articles of incorporation filed by the board of supervisors or the advisory board of the district shall be as specified in ORS 554.040 except that:

(a) The articles shall declare that the corporation is organized for the purpose of draining land or for the purpose of protecting land by flood control or for both drainage and flood control. If the reorganizing district is also providing water for irrigation or other authorized purposes, the articles shall also contain such purposes.

(b) The articles shall state that the board of supervisors or the advisory board of the district being reorganized are the directors of the corporation and shall hold office until the dates on which their terms of office as supervisors or members of the advisory board of the district would have expired.

(c) The articles shall specify that the corporation is a successor corporation to a drainage district under ORS chapter 547 or a diking district under ORS chapter 551 and that the name assumed by the corporation shall be the same as the district being reorganized except that the words "improvement company" shall be substituted for the word "district."

(d) The articles shall declare that the corporation is not formed for the purpose of operating the corporation for profit other than from the benefits of improvement of the land for which the corporation is formed.

(e) The articles shall declare that the lands to be improved by the works of the corporation are the same lands formerly included within the boundaries of the district being reorganized. In lieu of describing such lands as provided in ORS 554.040 (3), the lands may be identified by assessor's map number with a map or maps attached showing the location and identification thereon of the lands.

(f) The articles shall specify that the corporation shall:

(A) If formed for the purpose of draining land, continue operation and maintenance of the district's existing drainage works and any other works authorized under ORS 547.320 and 547.325; or

(B) If formed for the purpose of protecting land by flood control, provide maintenance of the district's existing flood control works or any other works authorized under ORS chapter 551.

(g) The articles shall declare that the corporation assumes all of the rights, duties and obligations legally incurred under contracts, covenants, other agreements, leases and business transactions entered into or begun before the date of dissolution of the district being reorganized and dissolved.

(3) Every owner of land described in the articles of incorporation of the reorganizing district is a member of the corporation.

(4) Notwithstanding any other law, the corporation formed under this section shall assume all debts and obligations of the dissolving district and may impose charges or assessments for the debts and obligations and for operational costs without the execution and recording of the landowners' notice under ORS 554.180. All lands subject to liens and encumbrances for such debts and obligations shall remain subject to the liens and encumbrances. A landowners' notice encumbering land for any new nonoperational debt shall require the consent of landowners representing two-thirds of the lands in the district. [1993 c.502 §2; 2013 c.284 §10]

**554.385 Findings by board of reorganizing district; plan of dissolution; transfer of district assets to corporation; statement of dissolution.** (1) When the decision of the landowners described in ORS 554.375 authorizes the dissolution of a drainage district or a diking district and the reorganization of the district into a corporation for drainage or flood control under this chapter, the board of supervisors of a drainage district or the advisory board of a diking district shall make findings of fact which shall include:

(a) The amount of each outstanding bond, coupon and other indebtedness, with a general description of the indebtedness and the name of the holder and owner of each, if known.

(b) A description of each parcel of real property and interest in real property and, if the property was acquired for delinquent taxes or assessments, the amount of such taxes and assessments on each parcel of property.

(c) Uncollected assessments and charges levied by the district and the amount upon each lot or tract of land.

(d) A description of the personal property and of all other assets of the district.

(2) The board of supervisors or the advisory board shall propose a plan of dissolution and liquidation, which shall include provision for transfer and conveyance of all assets of the district to the corporation organized by the board of supervisors or advisory board under ORS 554.380.

(3) Dissolution of a drainage district or diking district under this section shall occur without further action by the landowners of the district.

(4) The board of supervisors or the advisory board shall convey to the corporation organized by the board of supervisors or the advisory board under ORS 554.380 all assets of the dissolving district when:

(a) The corporation assumes all debts and obligations of the dissolving district and

undertakes to continue to furnish the services provided by the dissolving district pursuant to the plan of dissolution and liquidation and the articles of incorporation of the corporation; and

(b) The consent of all the known holders of valid indebtedness against the district has been obtained, or provision has been made in the plan for payment of the nonassenting holders.

(5) When all assets of the dissolving district are transferred to the corporation, the board of supervisors or the advisory board shall file with the governing body of the county in which the greatest area of the district is situated a sworn statement that the district has been dissolved under ORS 554.320 and 554.375 to 554.390 and its affairs liquidated. From the date of the statement, the corporate existence of the district is terminated for all purposes.

(6) ORS 548.900 to 548.955 and 551.180 do not apply to a district dissolved under ORS 554.320 and 554.375 to 554.390. [1993 c.502 §3]

**554.390 Dissolution of district and reorganization as corporation under ORS 554.320 and 554.375 to 554.390 prohibited after 2004.** A drainage district or a diking district shall not be dissolved and reorganized under ORS 554.320 and 554.375 to 554.390 after December 31, 2004. [1993 c.502 §4; 2001 c.703 §1]

## CORPORATIONS ORGANIZED UNDER 1911 ACT

**554.410 Applicability of ORS 554.005 to 554.340 to corporations organized under 1911 Act.** Nothing in ORS 554.005 to 554.340 shall be so construed as to affect the validity of any district improvement company organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but such corporations hereby are made subject to the provisions of ORS 554.005 to 554.340 so far as applicable. The provisions of ORS 554.005 to 554.340 shall not affect, impair or discharge any contract, obligation, lien or charge for or upon which such a company was or might become liable or chargeable had those sections not been passed; nor shall they affect the validity of any bonds issued prior to March 4, 1937; nor shall they affect any action then pending. All such corporations organized after March 4, 1937, shall be organized under the provisions of ORS 554.005 to 554.340 and not otherwise. Any corporation organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, which amends its articles of incorporation and landowners' notice as provided in ORS 554.420, shall thereafter be

subject to the provisions of ORS 554.005 to 554.340.

**554.420 Amendment of articles, and landowners' notice, of corporation organized under 1911 Act.** (1) Articles of incorporation of any district improvement company organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911, and the recorded notice of the owners of the lands described in such articles of incorporation, may be amended as provided in this section.

(2) If the members desire to amend the articles of incorporation they shall execute the amended articles, stating therein that such articles are for the purpose of amending articles of the same corporation of record in the Office of the Secretary of State and in the county where the land therein described is situated; that the amended articles are signed by an officer, director or court-appointed fiduciary by authority of a resolution of the board of directors; and that such articles as amended and adopted are as therein set out. The amended articles must conform with ORS 554.040. The amended articles must describe the land with particularity and state the owners thereof and the persons having any interest therein. The board of directors shall determine whether all landowners and persons having any interest in the lands have duly executed the same.

(3) If satisfied therewith the board of directors may, upon the execution by all landowners of the amended landowners' notice and being satisfied therewith and that all have executed the same, by resolution authorize an officer, director or court appointed fiduciary to execute the same on behalf of the corporation. Thereupon the amended articles shall be submitted to the Office of the Secretary of State for filing. The requirements for filing a document under ORS 554.005 apply to the amended articles.

(4) One true copy of the amended articles also shall be filed in each county where the land is situated.

(5) The landowners' amended notice shall be executed and recorded in the manner provided in ORS 554.180 and 554.190.

(6) From the filing of the amended articles by the Secretary of State, the amended articles and landowners' notice shall be effective instruments for every purpose; provided that such amended notice shall in no manner affect any lien, encumbrance, interest or estate in any of the lands attached, fixed or vested at the time of filing the same, or the priority thereof. If in such amendments it appears that the corporation is not for profit and it is so stated therein, the cor-

poration shall thereafter pay any applicable fee under ORS 554.016. [Amended by 1971 c.200 §10; 1987 c.94 §156; 1991 c.132 §35; 2013 c.284 §11]

**554.430 Applicability of 1911 Act, as amended, to corporations organized under that Act.** To the extent only that, by reason of the provisions of ORS 554.410, they have not been superseded, sections 2, 3, 4, 6, 7, 8, 9, 11 and 12, chapter 172, Oregon Laws 1911, as amended by section 2, chapter 101, Oregon Laws 1917, and by chapters 267 and 420, Oregon Laws 1927, and as supplemented by section 2, chapter 164, Oregon Laws 1923, shall remain applicable to corporations organized before March 4, 1937, under the provisions of chapter 172, Oregon Laws 1911.

**554.440 Malheur Improvement Company; exclusion or inclusion of land.** (1) Any person holding land within the Malheur Improvement Company district created under chapter 172, Oregon Laws 1911, who desires to have the land of the person excluded from the Malheur Improvement Company district, may file a petition with the secretary of such district. The petition shall be in writing, verified, and shall set forth the description of the lands desired to be excluded, and the reasons for such exclusion. Likewise, any person owning lands without such district who desires to have the lands of the person included within the district, may file a petition with the secretary, which petition shall be in writing, verified, and shall set forth the reasons why the land should be included in the district, and further, that the lands are susceptible of irrigation or drainage, as the case may be, from the system of works of the district.

(2) The secretary shall present any such petition at the next meeting of the board of directors of the improvement company. The board shall fix a time for the hearing thereof, either at a special meeting of the members of the corporation called for the purpose, or at the next regular annual meeting of the members. At such meeting, the petitioners may present witnesses and be represented either in person or by attorney, to establish the allegations set forth in the petition. Upon such hearing, the matter of including or excluding such lands from the district shall be put to a vote of the members, and if a majority vote of the members owning lands in the district is in favor of the relief asked for in the petition, then an order shall be made in the minutes in accordance with such vote.

(3) The secretary shall thereupon make a certificate certifying to the fact of the filing of such petition and the hearing thereon, and the action taken by the members of the district, and in such certificate shall describe the land included or excluded from the dis-

tract, as the case may be. The secretary shall submit the certificate to the Office of the Secretary of State for filing and shall file a true copy of the certificate with the county clerk of the county where the lands are situated. From and after the filing of the certificate by the Secretary of State the land described in the certificate shall be included or excluded, as the case may be, in or from the improvement company district.

(4) The articles of incorporation of the Malheur Improvement Company shall upon the filing of the certificate by the Secretary of State, and without any procedure other than as in this section provided, be deemed amended to include or exclude, as the case may be, the lands described in such certificate; provided, however, that any land within such improvement company district, and excluded therefrom on petition, shall not be relieved from the payment of its proportion of any bonded indebtedness created and outstanding of the company, prior to the exclusion of such lands therefrom. Lands without the improvement company district, and included therein by petition, shall be subject to any assessment thereafter levied by the company, whether for bonded indebtedness or otherwise. [Amended by 1987 c.94 §157]

## INCLUSION AND EXCLUSION OF LAND

**554.510 Authority to include or exclude lands.** A corporation formed under ORS 554.005 to 554.340 may amend its articles of incorporation to include or exclude land as provided in ORS 554.510 to 554.590. [1963 c.103 §2; 1987 c.94 §158]

**554.520 Application for inclusion or exclusion; approval of members.** When a corporation receives an application of one or more landowners either to include the lands of the landowner in or exclude the lands of the landowner from the corporation, the application shall be acted upon at a meeting of the members. If at the meeting the members present approve the application of the landowner by a majority vote, articles of amendment shall be executed by the corporation and filed with the Secretary of State and from the date of such filing the lands described in the amendment, as recited in the amendment, shall either be included or excluded from the corporation. [1963 c.103 §3]

**554.530 Application; contents; deposit; filing.** The application of the landowner shall:

(1) Be in writing and certified by the applicant.

(2) State the legal description of the land the applicant wishes either included in or excluded from the corporation.

(3) Contain a brief statement of the reason for request of the inclusion or exclusion of the lands of the landowner, and if the request is to include lands, a statement that the lands will be benefited by being included in the corporation.

(4) Be accompanied by a deposit in an amount to be determined by the corporation to pay the expenses of holding a meeting of the members to consider the application, including the cost of publishing notice of the meeting. After payment of such expenses, the balance of such deposit, if any, shall be returned to the applicant by the corporation.

(5) Be filed with the officer or clerk in charge of the principal office of the corporation. [1963 c.103 §4]

**554.540 Meeting date.** At the next meeting of the board of directors of the corporation after an application is filed and the deposit for expenses paid, the secretary of the corporation shall present the application to the board of directors. The board shall fix a date and time for the members to consider the application at a meeting at the principal office of the corporation, which shall be either a special meeting called for that purpose or the next regular annual meeting of the members. [1963 c.103 §5]

**554.550 Notice of meeting.** The secretary as directed by the board shall cause notice of the meeting to be published once each week for three successive weeks prior to the meeting in a newspaper published within the boundaries of the corporation, if any, or in a newspaper of general circulation in the county, where the principal office of the corporation is situated. The notice shall state the date of filing the application, the name of the applicant, a description of the land sought to be included or excluded, and the reason therefor given by the applicant. The notice shall state that all members, creditors of the corporation and other interested persons may attend the meeting, and be heard concerning the application. [1963 c.103 §6]

**554.560 Quorum for meeting.** Notwithstanding the provision of ORS 554.070 (2) providing for a quorum to do business, the members of the corporation present shall constitute a quorum to approve or reject the application to include land in, or exclude land from, the corporation. [1963 c.103 §7]

**554.570 Effect of exclusion on existing debts.** (1) An amendment to exclude land shall not relieve any land from any lien existing at the time of the exclusion of the land, affect the date of priority of any lien of the corporation upon any land or relieve any landowner from any obligation to pay any valid outstanding bonds or indebtedness of the corporation; but the land shall con-

tinue to be subject to the lien and chargeable with all obligations outstanding at the time of the exclusion. For the purpose of enforcing any lien for such obligations, lands excluded shall be considered part of the corporation as if the exclusion had never been accomplished.

(2) Lands excluded shall not be chargeable with a lien for any obligation incurred after the date of filing the articles of amendment with the Secretary of State, providing for the exclusion of such lands. [1963 c.103 §8]

**554.580 Condition of approval of inclusion.** (1) As a condition to approval of an application, if the meeting is on an application to include lands, the members may require the applicant to agree to pay a pro rata share of all unpaid obligations incurred for improvements which the applicant would have been required to pay if the land of the applicant had been in the corporation from its formation or from the time the obligations were incurred.

(2) From the date of filing articles of amendment with the Secretary of State, providing for the inclusion of such lands they shall be liable for obligations incurred and assessments levied. [1963 c.103 §9]

**554.590 Articles of amendment; filing; effective date.** (1) If an application to include or exclude lands is approved, articles of amendment shall set forth:

(a) The name of the corporation.

(b) A reference to the provision in the original or amended articles of the corporation affected and a statement of the particular land by legal subdivisions so far as possible and otherwise by tracts or lots of duly platted land or by metes and bounds, with the acreage thereof and the name of the owner as shown by the records of the county, included or excluded by the amendment.

(c) The date the members approved the inclusion or exclusion of the land.

(2) The articles of amendment shall be submitted to the Office of the Secretary of State for filing. The requirements for filing a document under ORS 554.005 apply to articles of amendment under this section.

(3) From the date that the Secretary of State files the articles of amendment, the lands described in the amendment shall be included or excluded from the corporation as recited in the amendment.

(4) The corporation shall file a true copy of the articles of amendment with the county recording officer of the county where the land included or excluded by the amendment is situated. [1963 c.103 §10; 1971 c.200 §11; 1987 c.94 §159]

**554.600** [1963 c.103 §11; repealed by 1987 c.94 §171]



## ANNOTATIONS FOR CHAPTERS

### 545, 547, 548, 551, 553 and 554

(2017 Cumulative Supplement Annotations are indicated with \*)

## Chapter 545 Irrigation Districts

### Chapter 545

#### NOTES OF DECISIONS

An irrigation district constitutes a complete and independent corporate entity. *Harney Valley Irr. Dist. v. Weittenhiller*. (1921) 101 Or 1, 198 P 1093.

An irrigation district is a municipal corporation, its property public property, and its officers public officers, with duties and powers fixed and limited by the law of their creation. *Twohy Bros. Co. v. Ochoco Irr. Dist.* (1923) 108 Or 1, 210 P 873, 216 P 189.

An irrigation district has no powers, either governmental or proprietary, except those granted to it by the legislature, either express or by clear implication. *Redmond Realty Co. v. Central Ore. Irr. Dist.*, (1932) 140 Or 282, 12 P2d 1097.

An irrigation district is a quasi-municipal corporation having no specific charter and one which is organized for a particular purpose only. *Central Pac. R. Co. v. Ager*, (1933) 144 Or 527, 25 P2d 927.

FURTHER CITATIONS: *Peterkort & Co. v. E. Wash. County Zoning Dist.*, (1957) 211 Or 188, 313 P2d 773, 314 P2d 912; *Cook v. Hill* (1960) 224 Or 565, 356 P2d 1067; *United States v. Howell*, (1965) 251 F Supp 787; *Union Pac R.R. v. Vale*, *Oregon Irr. Dist.*, (1966) 253 F Supp 251.

ATTY. GEN. OPINIONS: Construing "owner of land" as to tenants by the entirety, 1948-50, p 171; assessment of district for water supplied as an assessment for local improvements, 1952-54, p 4; absentee voters at district elections, 1954-56, p 113; signing poll books, notice in district elections, 1954-56, p 213; authority to distribute water to landowners and collect charges, 1956-58, p 260; other municipal districts under people's utility district law, 1960-62, p 325; taxation of interest on district obligations, 1962-64, p 77; fuel tax refunds for fuel used on district roads, 1962-64, p 81; enforcing statute prohibiting extraterritorial use of district equipment, 1964-66, p 418.

LAW REVIEW CITATIONS: 45 OLR 280, 284; 46 OLR 160; 47 OLR 16-70.

### 545.002

#### NOTES OF DECISIONS

Former similar statute did not violate Ore. Const. Art. II, §2. *Board of Directors v. Peterson*, (1913) 64 Or 46, 128 P 123.

Owners of land which can be irrigated were the only ones qualified to sign the petition. *Herrett v. Warm Springs Irr. Dist.*, (1917) 86 Or 343, 168 P 609.

Oregon took the Irrigation District Act from California and the decisions of the courts of that state are highly persuasive in construing our Act. *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 163.

\*Irrigation district has no *respondeat superior* liability for negligence of joint committee when there is no express or implied agency relationship between irrigation district and joint committee. *McKinley v. Owyhee Project North Board of Control*, 103 Or App 253, 798 P2d 673 (1990), **as modified by** 104 Or App 576, 802 P2d 677 (1991), Sup Ct **review denied**.

FURTHER CITATIONS: *Hanley Co. v. Harney Valley Irr. Dist.*, (1919) 93 Or 78, 89, 180 P 724, 182 P 559; *Gard v. Henderson*, (1920) 95 Or 520, 187 P 839; *Peterkort & Co. v. E. Wash. County Zoning Dist.*, (1957) 211 Or 188, 313 P2d 773, 314 P2d 912.

ATTY. GEN. OPINIONS: Construing "owner of land" as to tenants by the entirety, 1948-50, p 171; right of director to retain his office after he incorporates his holdings located in the district, 1948-50, p 406; signing poll books, notice in district elections, 1954-56, p 213; maintaining negligence action against district, 1960-62, p 204; constitutionally of voter qualification, (1968) Vol 34, p 263.

\*Constitutionality of irrigation district elections voting right provisions, (1978) Vol 39, p 70.

LAW REVIEW CITATIONS: 9 OLR 504; 4 WLJ 563.

### 545.004

#### NOTES OF DECISIONS

Proceedings for organization of district were regular. *Board of Directors v. Peterson*, (1913) 64 Or 46, 128 P 837, 129 P 123; *Links v. Anderson*, (1917) 86 Or 508, 168 P 605; *Re Grants Pass Irr. Dist.*, (1918) 87 Or 643, 171 P 486.

Sufficiency of petition was sustained. *Herrett v. Warm Springs Irr. Dist.*, (1917) 86 Or 343, 168 P 609; *Hanley Co. v. Harney Valley Irr. Dist.*, (1919) 93 Or 78, 180 P 724, 182 P 559; *Re Harper Irr. Dist.*, (1923) 108 Or 598, 216 P 1020.

Publication of the petition and notice was essential to jurisdiction to establish the district. *Hanley Co. v. Harney Valley Irr. Dist.*, (1919) 93 Or 78, 180 P 724, 182 P 559; *Re Harper Irr. Dist.*, (1923) 108 Or 598, 216 P 1020.

Affidavit of publication was insufficient proof of compliance with law. *Hanley Co. v. Harney Valley Irr. Dist.*, (1919) 93 Or 78, 180 P 724, 182 P 559.

## WATER LAWS

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Judicial notice was taken of the organization of an irrigation district. *Harney Valley Irr. Dist. v. Weittenhiller*, (1921) 101 Or 1, 198 P 1093.

Bond was insufficient because conditioned in the sum of \$1,000 rather than for whatever cost might be adjudged in case the petition was not granted. *Greig v. Owyhee Irr. Dist.*, (1921) 102 Or 265, 202 P 222.

Sureties were not required to be disinterested persons. *Id.*

Decree adjudging establishment of district according to law was not subject to attack because of giving of notice. *Weber v. Jordan Valley Irr. Dist.*, (1923) 109 Or 426, 220 P 146.

ATTY. GEN. OPINIONS: Absentee voters at district elections, 1948-50, p 100; application of carrier regulations to district, 1962-64, p 158.

LAW REVIEW CITATIONS: 3 WLJ 296.

### 545.006

#### NOTES OF DECISIONS

The technicalities of an action at law need not be observed in a proceeding for the organization of an irrigation district. *Hanley Co. v. Harney Valley Irr. Dist.*, (1919) 93 Or 78, 180 P 724, 182 P 559.

The county judge has jurisdiction of the proceeding without the attendance of the county commissioners; the organization of an irrigation district not being county business. *Harney Valley Irr. Dist. v. Weittenhiller*, (1921) 101 Or 1, 198 P 1093.

The order concerning the number of petitioners, etc., should have stated all the facts found or determined by the court upon the hearing. *Hanley Co. v. Harney Valley Irr. Dist.*, (1919) 93 Or 78, 180 P 724, 182 P 559.

Lands which were within the district and susceptible of irrigation from the system were presumed to be benefited thereby, in the absence of a contrary determination obtained later upon a petition for the exclusion of particular tracts. *Re Harper Irr. Dist.*, (1923) 108 Or 598, 216 P 1020.

Finding a court, declaring district to have been organized, was conclusive against collateral attack in a proceeding for the cancellation of warrants issued by the district. *Northern Pac. R. Co. v. John Day Irr. Dist.*, (1923) 106 Or 140, 211 P 781.

FURTHER CITATIONS: *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 163.

### 545.008

ATTY. GEN. OPINIONS: Effect of subdistricting, (1968) Vol 34, p 263.

### 545.010

CASE CITATIONS: *Re Application of Riggs*, (1922) 105 Or 531, 207 P 175, 1005, 210 P 217.

### 545.012

#### NOTES OF DECISIONS

To overcome the prima facie validity of an election, facts must be stated which, if sustained by proof, would render it the duty of the court to vacate the election

or declare the result to have been otherwise. *Re Application of Riggs*, (1922) 105 Or 531, 207 P 175, 210 P 217.

FURTHER CITATIONS: *Harney Valley Irr. Dist. v. Weittenhiller*, (1921) 101 Or 1, 198 P 1093.

ATTY. GEN. OPINIONS: Vacancy in office as to board member who loses qualifications, 1948-50, p 406; absentee voters at district elections, 1954-56, p 113; signing poll books, 1954-56, p 213.

### 545.014

ATTY. GEN. OPINIONS: Election to be held even though the day is a holiday, 1940-42, p 349; procedure when a tie election, 1948-50, p 347; right of director of irrigation district to retain his office after he incorporates his holdings located in the district, 1948-50, p 406; construing regular general election, 1952-54, p 220; election held on holiday, 1958-60, p 53; procedure to resign, 1962-64, p 231; electing a successor to an office held by a holdover after a tie vote, 1964-66, p 346; effect of subdistricting, (1968) Vol 34, p 263.

### 545.026

ATTY. GEN. OPINIONS: Regarding the right to consider and count votes for candidates for office of director of irrigation district who were not regularly nominated and whose names were written in on the ballot, 1932-34, p 88; elector of a previously organized irrigation district as entitled to cast vote for director as an absentee voter at the district election, 1936-38, p 86; absent voters in irrigation district elections, 1954-56, p 113.

### 545.028

ATTY. GEN. OPINIONS: Absentee voters at district elections, 1954-56, p 113.

### 545.030

#### NOTES OF DECISIONS

The fact that the polls were not kept open during the full statutory period was not ground for contesting the election. *Links v. Anderson*, (1917) 86 Or 508, 168 P 605, 1182.

ATTY. GEN. OPINIONS: Absentee voters at district elections, 1954-56, p 113.

### 545.032

CASE CITATIONS: *Cook v. Hill*, (1960) 224 Or 565, 356 P2d 1067.

ATTY. GEN. OPINIONS: Signing poll books, notice in district elections, 1954-56, p 213.

### 545.034

CASE CITATIONS: *Cook v. Hill*, (1960) 224 Or 565, 356 P2d 1067.

### 545.036

CASE CITATIONS: *Cook v. Hill*, (1960) 224 Or 565, 356 P2d 1067.



## ANNOTATIONS

**545.038**

### NOTES OF DECISIONS

An appeal must be taken in conformity with this section. *Allen v. Levens*, (1921) 101 Or 466, 198 P 907, 199 P 595.

Notice of contest was sufficient. *Hendricksen v. Clark*, (1921) 102 Or 250, 201 P 1071.

FURTHER CITATIONS: *Re Application of Riggs*, (1922) 105 Or 531, 545, 207 P 175, 1005, 210 P 217; *Cook v. Hill*, (1960) 224 Or 565, 356 P2d 1067.

**545.040**

### NOTES OF DECISIONS

This section makes irrigation districts subject to the provisions of the Act of 1917. *Re Bd. of Directors of North Unit Irr. Dist.*, (1919) 91 Or 33, 178 P 186.

**545.062**

### NOTES OF DECISIONS

Moneys of an irrigation district, although collected by county officials, belong to the district; they do not become county funds. *State v. Crook County Bank*, (1922) 104 Or 495, 501, 208 P 749.

Contract for furnishing water to a city was not illegal. *Butler & Thompson Co. v. City of Ashland*, (1924) 109 Or 683, 222 P 346.

FURTHER CITATIONS: *Twohy Bros. Co. v. Ochoco Irr. Dist.*, (1923) 108 Or 1, 16, 210 P 873, 216 P 189; *Lewis v. Klamath Irr. Dist.*, (1964) 237 Or 466, 391 P2d 774.

ATTY. GEN. OPINIONS: County treasurer as ex officio treasurer of irrigation district, and right to extra compensation for such services, 1920-22, p 655; authority of county treasurer to deliver to reclamation commission refunding bonds and money received from sale of surplus water, 1928-30, p 350; payment of court fees by an irrigation district, 1948-50, p 242; duty of county treasurer to keep a bond register, 1950-52, p 393; authority to distribute water to landowners and collect charges, 1956-58, p 260; same person serving as member of State Water Resources Board, as manager and secretary of irrigation district, and as county judge, 1958-60, p 308.

**545.064**

### NOTES OF DECISIONS

United States is not a necessary or proper party to suit by district involving water acquired from United States and distributed by district. *Enterprise Irr. Dist., v. Enterprise Land & Inv. Co.*, (1931) 137 Or 468, 300 P 507.

ATTY. GEN. OPINIONS: Same person serving as member of State Water Resources Board, as manager and secretary of irrigation district, and as county judge, 1958-60, p 308; action against irrigation district for flood damage, 1960-62, p 204; authority of district attorney to prosecute persons violating subsection (2), 1964-66, p 418.

**545.070**

### NOTES OF DECISIONS

District had the right to assert invalidity of contract for construction work. *Twohy Bros. Co. v. Ochoco Irr. Dist.*, (1923) 108 Or 1, 16, 210 P 873, 216 P 189.

Contract authorizing landowner to use escaping water was not beyond the powers of the district. *Barker v. Sonner*, (1931) 135 Or 75, 294 P 1053.

**545.074**

### NOTES OF DECISIONS

A contract for construction of irrigation works entered into by the district without advertising for bids was invalid, and the district was not liable for work performed pursuant to the contract. *Twohy Bros. Co. v. Ochoco Irr. Dist.*, (1923) 108 Or 1, 210 P 873, 216 P 189.

**545.082**

### NOTES OF DECISIONS

Provisions relating to interest acquired by condemnation are to be construed strictly. *Warm Springs Irr. Dist., v. Pac. Livestock Co.*, (1921) 270 Fed 560.

Interest in reservoir site acquired by condemnation was an easement only. *Id.*

FURTHER CITATIONS: *Richmond Inv. Co. v. United States*, (1957) 249 F2d 811.

ATTY. GEN. OPINIONS: Regarding method whereby irrigation district can obtain the right to construct laterals on county road to deliver water to tracts of land, 1920-22, p 85; authority of irrigation district to enter upon land owned by the state and lying within such district and to construct a drainage ditch through the same, 1936-38, p 169.

LAW REVIEW CITATIONS: 45 OLR 280; 46 OLR 160; 47 OLR 16-70.

**545.084**

LAW REVIEW CITATIONS: 46 OLR 133, 143.

**545.086**

LAW REVIEW CITATIONS: 46 OLR 143.

**545.088**

LAW REVIEW CITATIONS: 45 OLR 285.

**545.090**

CASE CITATIONS: *Richmond Inv. Co. v. United States*, (1957) 249 F2d 811.

ATTY. GEN. OPINIONS: Canal roads of district as privately-owned roads and not public highways, 1948-50, p 114.

**545.099**

### NOTES OF DECISIONS

\*Where petition to exclude land from irrigation district is denied, landowners seeking exclusion have statutory right to seek judicial review. *Orr v. East*

## WATER LAWS

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Valley Water District, 203 Or App 430, 125 P3d 834 (2005), Sup Ct **review denied**.

### 545.102

#### NOTES OF DECISIONS

Contract to furnish water to a city was not illegal for want of restriction of use of water to irrigation. *Butler & Thompson Co. v. City of Ashland*, (1924) 109 Or 683, 222 P 346.

An agreement between an irrigation district and a landowner whereby the latter became entitled to retain certain waste waters in consideration of his release of the district from all claims for damages was not in excess of the powers granted to the district. *Barker v. Sonner*, (1931) 135 Or 75, 294 P 1053.

LAW REVIEW CITATIONS: 45 OLR 280, 283.

### 545.104

ATTY. GEN. OPINIONS: Statue as applicable only to land not subject to assessment by irrigation district, 1924-26, p 333.

### 545.106

LAW REVIEW CITATIONS: 45 OLR 280.

### 545.108

ATTY. GEN. OPINIONS: Right of district to foreclose assessment lien where improvement not attached to particular property, 1950-52, p 421.

### 545.110

CASE CITATIONS: *Warm Springs Irr. Dist. v. Pac. Livestock Co.*, (1921) 270 Fed 560.

LAW REVIEW CITATIONS: 25 OLR 1401; 45 OLR 280, 281, 283; 46 OLR 160; 47 OLR 16-70.

### 545.144

#### NOTES OF DECISIONS

This section does not constitute a deprivation of property without due process of law. *Johnson v. Warm Springs Irr. Dist.*, (1926) 118 Or 239, 246 P 527.

### 545.192

#### NOTES OF DECISIONS

The purpose of issuance of bonds may not be abandoned by directors, and the bonds be sold to finance a different project, and such purpose must be stated in the call for election. *Medford Irr. Dist. v. Hill*, (1920) 96 Or 649, 190 P 957.

Everyone dealing with an irrigation district is charged with notice of the extent of its powers and the legislative limitations and restrictions upon the exercise thereof. *Redmond Realty Co. v. Central Ore. Irr. Dist.*, (1932) 140 Or 282, 12 P2d 1097.

Jurisdiction to determine regularity of proceedings authorizing issuance and sale of bonds was acquired by court. *Harney Valley Irr. Dist. v. Bolton*, (1923) 109 Or 486, 221 P 171.

The board of directors was without authority to issue bonds for the purpose of paying outstanding warrants issued for purposes of operation and maintenance.

*Redmond Realty Co. v. Central Ore. Irr. Dist.*, (1932) 140 Or 282, 12 P2d 1097.

ATTY. GEN. OPINIONS: Regarding sufficiency of notice, 1920-22, p 223; duty of reclamation commission in connection with claim that a certificate of deposit of bonds has been mislaid or lost, 1934-36, p 319; legality and effect of affidavit as to loss or destruction of certificate of deposit for irrigation district bonds, 1934-36, p 319; absent voters in irrigation district elections, 1954-56, p 113.

### 545.196

ATTY. GEN. OPINIONS: Duty of county treasurer as mandatory under this section, 1950-52, p 393.

### 545.202

#### NOTES OF DECISIONS

Publication of notice was sufficient. *Payette-Ore. Slope Irr. Dist. v. Peterson*, (1915) 76 Or 630, 149 P 1051.

Directors did not have authority to execute an option agreement for the sale of bonds. *Young v. Gard*, (1929) 129 Or 534, 277 P 1005.

### 545.204

#### NOTES OF DECISIONS

The plaintiff could, in a proceeding in mandamus, compel the levy of assessments. *Kollock v. Barnard*, (1926) 116 Or 694, 242 P 847.

Bonds of district were not secured by a lien on the property of the district. *Johnson v. Warm Springs Irr. Dist.*, (1926) 118 Or 239, 247, 246 P 527.

FURTHER CITATIONS: *Re Harper Irr. Dist.*, (1923) 108 Or 598, 615, 216 P 1020; *State v. McClain*, (1931) 136 Or 53, 298 P 211; *Warm Springs Irr. Dist. v. Holman*, (1934) 146 Or 110, 29 P2d 825; *Buell v. Jefferson County*, (1944) 175 Or 402, 152 P2d 578, 154 P2d 188.

ATTY. GEN. OPINIONS: Payment of irrigation district bonds, 1924-26, p 512.

### 545.206

#### NOTES OF DECISIONS

The assessment of each year should be sufficiently broad to take care of actual and contemplated delinquencies in prior assessments. *Noble v. Yancy*, (1925) 116 Or 356, 241 P 335.

Provisions for delinquencies must be made in computing the amount to be raised. *Kollock v. Barnard*, (1926) 116 Or 694, 242 P 847.

### 545.208

#### NOTES OF DECISIONS

Assessment liens do not have priority over mortgages securing the payment of common school funds. *Eagle Point Irr. Dist. v. Cowden*, (1931) 137 Or 121, 1 P2d 605.

Bonds of district were not secured by a lien on the property of the district. *Johnson v. Warm Springs Irr. Dist.*, (1926) 118 Or 239, 246 P 527.

A State Land Board mortgage securing moneys of the Common School Fund was inferior to bonds of an

## ANNOTATIONS

irrigation district of a prior issue and sums levied and assessed for the annual service of such bonds and maintenance. *State Land Bd. v. Davidson*, (1934) 147 Or 504, 34 P2d 608.

ATTY. GEN. OPINIONS: Irrigation district bonds as liens upon assessments levied on property within irrigation district for the payment thereof, 1932-34, p 223; liability for irrigation taxes assessed upon real property covered by mortgage to State Land Board and sold at foreclosure sale, 1936-38, p 555; right of district to foreclose assessment lien where improvement not attached to particular property, 1950-52, p 421.

### 545.210

ATTY. GEN. OPINIONS: Participation by irrigation district in distribution of proceeds derived from sale of property acquired by county by tax deed, 1924-26, p 389; right of irrigation district to exclusively purchase property, acquired by the county for delinquent taxes, where district has not constructed any local improvements on it, 1950-52, p 421.

### 545.212

CASE CITATIONS: *Lewis v. Klamath Irr. Dist.*, (1964) 237 Or 466, 391 P2d 774.

### 545.226

#### NOTES OF DECISIONS

This section is constitutional. There is nothing in the Constitution which prohibits the legislature from canceling or authorizing the cancelation of such evidences of indebtedness under the conditions contemplated. *Warm Springs Irr. Dist. v. Holman*, (1934) 146 Or 110, 29 P2d 825.

The legislature intended to authorize the reclamation commission to cancel only so much of the indebtedness of any district to the state as it found the district unable to pay. *Id.*

ATTY. GEN. OPINIONS: Method of cancelation and delivery of certificate of indebtedness, 1934-36, p 128.

### 545.242

#### NOTES OF DECISIONS

It was not the intention of the legislature to permit irrigation districts to issue bonds for their running expenses, except in refunding all of their indebtedness, with the consent of the reclamation commission. *Redmond Realty Co. v. Central Ore. Irr. Dist.*, (1932) 140 Or 282, 12 P2d 1097.

FURTHER CITATIONS: *Warm Springs Irr. Dist. v. May*, (1941) 117 F2d 802.

### 545.260

ATTY. GEN. OPINIONS: When the reclamation commission, or secretary thereof, has authority to sign receipts and memorandum of sale in connection with adjustment and deposit of bonds of irrigation district, 1934-36, p 262; duty of county treasurer to keep a bond register, 1950-52, p 393.

### 545.280

#### NOTES OF DECISIONS

A decree adjudging the consent of dissenting bondholders is conclusive against collateral attack unless void for want of jurisdiction of the subject matter or persons. *Warm Springs Irr. Dist. v. May*, (1941) 117 F2d 802.

### 545.320

ATTY. GEN. OPINIONS: Authority of commission to pay bonds presented, reserving funds available for payment of coupons until they are properly presented, 1940-42, p 413.

### 545.432

#### NOTES OF DECISIONS

A former similar statute was held constitutional. *Cannon v. Hood River Irr. Dist.*, (1916) 79 Or 71, 154 P 397; *Northern Pac. R. Co. v. John Day Irr. Dist.*, (1923) 106 Or 140, 211 P 781; *Northwestern Imp. Co. v. John Day Irr. Dist.*, (1922) 286 Fed 294.

The implied intention of the legislature was not to restrict the right of an irrigation district to appropriate water for land not included within its boundaries. *Butler & Thompson Co. v. City of Ashland*, (1924) 109 Or 683, 222 P 346.

ATTY. GEN. OPINIONS: Right of district to foreclose assessment lien where improvement not attached to particular property, 1950-52, p 421; assessment of district for water supplied as an assessment for local improvements, 1952-54, p 4.

### 545.434

#### NOTES OF DECISIONS

Owners were not entitled to notice and an opportunity to be heard upon the question of benefits to their lands. *Re Harper Irr. Dist.*, (1923) 108 Or 598, 600, 216 P 1020.

The writ properly directed that the assessment be levied against all lands, including those purchased by the district on foreclosure of certificates of delinquencies for taxes. *State v. McClain*, (1931) 136 Or 53, 298 P 211.

ATTY. GEN. OPINIONS: Land owned by an irrigation or drainage district in a proprietary capacity as subject to district assessments which may not be canceled, 1942-44, p 122.

### 545.448

#### NOTES OF DECISIONS

Absence of proof of publication of notice was not a jurisdictional defect. *Northern Pac. R. Co. v. John Day Irr. Dist.*, (1923) 106 Or 140, 211 P 781.

In a suit to foreclose a certificate of delinquency, a landowner who has not taken advantage of the remedies that the law affords him could not receive the benefit of the remedy he should have sought before the board of equalization. *Klamath County v. Colonial Realty Co.*, (1932) 139 Or 311, 7 P2d 976.

## WATER LAWS

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**545.450**

### NOTES OF DECISIONS

Failure to appeal to the board of equalization for relief does not estop the landowner from asserting the invalidity of an assessment upon grounds of a jurisdictional character. *Payette-Ore. Slope Irr. Dist. v. Coughanour*, (1939) 162 Or 458, 91 P2d 526.

FURTHER CITATIONS: *Northern Pac. R. Co. v. John Day Irr. Dist.*, (1923) 106 Or 140, 211 P 781.

**545.452**

### NOTES OF DECISIONS

Priority of irrigation district assessment liens over mortgages securing the payment of Common School Fund was not intended by this section. *Eagle Point Irr. Dist. v. Cowden*, (1931) 137 Or 121, 1 P2d 605.

A State Land Board mortgage securing moneys of the Common School Fund was inferior to bonds of an irrigation district of a prior issue. *State Land Board v. Davidson*, (1934) 147 Or 504, 34 P2d 608.

FURTHER CITATIONS: *Horsefly Irr. Dist. v. Hawkins*, (1928) 127 Or 176, 182, 271 P 194; *Jordan Valley Irr. Dist. v. Title & Trust Co.*, (1936) 154 Or 76, 84, 58 P2d 606; *Buell v. Jefferson County*, (1944) 175 Or 402, 152 P2d 578, 154 P2d 188.

ATTY. GEN. OPINIONS: Payment of taxes for operation and maintenance to the exclusion of other taxes, 1924-26, p 550; right of irrigation district to withhold water from real property acquired by State Land Board by foreclosure, 1934-36, p 379; the state as required to pay taxes against lands in irrigation districts before they are sold, resold or contract of sale executed, 1936-38, p 479; liability for irrigation taxes assessed upon real property covered by mortgage to State Land Board and sold at foreclosure sale, 1936-38, p 555; application to payment of taxes of money received by State Land Board from sale of crop on land sold on a contract which had been canceled, 1940-42, p 293; when irrigation district levies must be made and when certified to county assessor, 1940-42, p 357; foreclosing lien of irrigation taxes with county taxes, or separately, 1940-42, p 479; statutes requiring payment of interest and penalties on delinquent taxes as applicable to state owned lands, 1942-44, p 274; constitutionality of using highway funds to compensate for exclusion of land from irrigation districts, 1960-62, p 201; exemption of state lands from district assessments, 1964-66, p 391.

**545.460**

ATTY. GEN. OPINIONS: Right of irrigation district to withhold water from real property acquired by State Land Board by foreclosure, 1934-36, p 379.

**545.490**

### NOTES OF DECISIONS

Failure to appeal to the board of equalization did not preclude landowners from maintaining a suit for the cancellation of unpaid taxes and charges and for damages because of the failure of the district to supply water. *Smith v. Enterprise Irr. Dist.*, (1939) 160 Or 372, 85 P2d 1021.

FURTHER CITATIONS: *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 163.

**545.492**

### NOTES OF DECISIONS

An assessment order may be attacked by a proceeding under the Confirmation Act. *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 163.

Appeal was properly dismissed. *Id.*

**545.522**

ATTY. GEN. OPINIONS: Duty of secretary of irrigation district as mandatory under this section, 1950-52, p 393.

**545.562**

### NOTES OF DECISIONS

The submission of claims on vouchers is mandatory. *Young v. Gard*, (1929) 129 Or 534, 277 P 1005; *Lewis v. Klamath Irr. Dist.*, (1964) 237 Or 466, 391 P2d 774.

FURTHER CITATIONS: *Taylor v. Eagle Point Irr. Dist.*, (1970) 3 Or App 545, 474 P2d 774, Sup Ct **review denied**.

ATTY. GEN. OPINIONS: Order of payment of warrants issued by irrigation district, 1936-38, p 690; application of interest which has accrued since maturity of bonds and interest coupons, 1940-42, p 220; authority of county treasurer to indorse warrants presented in accordance with this section where they are drawn against a delinquent tax fund and there is no current levy, 1952-54, p 60.

**545.563**

CASE CITATIONS: *Lewis v. Klamath Irr. Dist.*, (1964) 237 Or 466, 391 P2d 774.

**545.582**

### NOTES OF DECISIONS

The court took judicial notice of the boundaries of an irrigation district. *Harney Valley Irr. Dist. v. Weittenhiller*, (1921) 101 Or 1, 198 P 1093.

**545.584**

CASE CITATIONS: *Lewis v. Klamath Irr. Dist.*, (1964) 237 Or 466, 391 P2d 774.

**545.586**

CASE CITATIONS: *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 163.

**545.588**

CASE CITATIONS: *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 163.

**545.592**

CASE CITATIONS: *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 163.

## ANNOTATIONS

### 545.594

#### NOTES OF DECISIONS

The appeal procedure referred to is in effect that provided for appeals from justice courts. *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 163.

### 545.602

#### NOTES OF DECISIONS

The owner was entitled to have his tract excluded where the land receives irrigation from another system. *Re Harper Irr. Dist.*, (1923) 108 Or 598, 600, 216 P 1020.

The fact that the exclusion of railroad lands from an irrigation district slightly increased the amount chargeable to other lands of the district for operation and maintenance costs was no ground for refusing to exclude the railroad lands. *Central Pac. R. Co. v. Ager*, (1933) 144 Or 527, 25 P2d 927.

FURTHER CITATIONS: *United States v. Aho*, (1943) 51 F Supp 137.

### 545.604

ATTY. GEN. OPINIONS: Constitutionality of using highway funds to compensate for exclusion of land from irrigation districts, 1960-62, p 201.

### 545.606

#### NOTES OF DECISIONS

Where lands in two counties are sought to be excluded, publication of notice in a newspaper in but one of the counties is insufficient. *Re Application of Riggs*, (1922) 105 Or 531, 207 P 175, 210 P 217.

A notice of appeal from the decision of the board of directors need not be served upon interested landowners who have appeared and filed objections against the exclusion of lands in the district. *Central Pac. R. Co. v. Ager*, (1933) 144 Or 527, 25 P2d 927.

FURTHER CITATIONS: *Hanley Co. v. Harney Valley Irr. Dist.*, (1919) 93 Or 78, 180 P 724, 182 P 559.

### 545.608

#### NOTES OF DECISIONS

The proceeding is a special statutory proceeding and the rules applicable to ordinary civil actions do not apply. *Central Pac. R. Co. v. Ager* (1933) 144 Or 527, 25 P2d 927.

### 545.618

ATTY. GEN. OPINIONS: Effect of subdistricting, (1968) Vol 34, p 263.

### 545.620

ATTY. GEN. OPINIONS: Constitutionality of using highway funds to compensate for exclusion of land from irrigation districts, 1960-62, p 201.

### 545.624

ATTY. GEN. OPINIONS: Effect of subdistricting, (1968) Vol 34, p 263.

## Chapter 547 Drainage Districts

### Chapter 547

#### NOTES OF DECISIONS

The state and its instrumentalities have no power to subject the lands of federal sovereign to assessment. *Peninsula Drainage Dist. 2 v. Portland*, (1958) 212 Or 398, 320 P2d 277.

FURTHER CITATIONS: *Tillman v. United States*, (1956) 232 F2d 511.

ATTY. GEN. OPINIONS: Application to drainage districts of law requiring public contractors to pay prevailing wage, 1958-60, p 317; taxation of interest on district obligations, 1962-64, p 77; authority of district to levy assessments on county roads, 1966-68, p 140.

LAW REVIEW CITATIONS: 47 OLR 16-70.

### 547.005 to 547.055

ATTY. GEN. OPINIONS: Application to districts of taxes and regulations administered by Public Utility Commissioner, 1962-64, p 158; authority of drainage districts to levy assessments on county roads, 1966-68, p 140.

### 547.005

ATTY. GEN. OPINIONS: District as municipality qualified under the people's utility district law, 1960-62, p 325; constitutionality of voter qualification, (1968) Vol 34, p 263.

LAW REVIEW CITATIONS: 45 OLR 281.

### 547.010

#### NOTES OF DECISIONS

1915 c. 340 is valid as it does not tax the people of the district without their consent, in violation of Ore. Const. Art. I, §32. *State v. Mehaffey*, (1917) 82 Or 683, 237 P 684, 239 P 193.

Only benefited lands should be included in a district. *Re Scappoose Drainage Dist.*, (1925) 115 Or 541, 237 P 684, 239 P 193.

FURTHER CITATIONS: *Rees v. Valley Drainage Dist.*, (1921) 101 Or 65, 199 P 178; *Stafford v. Multnomah County Drainage Dist.*, (1922) 103 Or 197, 204 P 158; *Norby v. Section Line Drainage Dist.*, (1938) 159 Or 80, 82, 76 P2d 966; *State v. Bishop*, (1942) 169 Or 448, 127 P2d 736; *Delta Farms v. Scappoose Drainage Dist.*, (1955) 206 Or 99, 288 P2d 816, 291 P2d 762.

## WATER LAWS

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### 547.045

CASE CITATIONS: United States v. Aho, (1943) 51 F Supp 137.

ATTY. GEN. OPINIONS: Diking district levy on port district land, 1962-64, p 59; authority of district to levy assessments on county roads, 1966-68, p 140.

### 547.055

#### NOTES OF DECISIONS

Organization of district was valid. Re Scappoose Drainage District, (1925) 115 Or 541, 237 P 684, 1117, 1118, 239 P 193.

### 547.105

ATTY. GEN. OPINIONS: District as a municipality qualified under the people's utility district law, 1960-62, p 325; application to districts of taxes and regulations administered by Public Utility Commissioner, 1962-64, p 158; constitutionality of voter qualification, (1968) Vol 34, p 263.

### 547.110

ATTY. GEN. OPINIONS: Construing regular general election, 1952-54, p 220; constitutionality of voter qualification, (1968) Vol 34, p 263.

### 547.140

ATTY. GEN. OPINIONS: Application to districts of taxes and regulations administered by Public Utility Commissioner, 1962-64, p 158.

### 547.210

#### NOTES OF DECISIONS

Only lands which will be benefited should be included in a district. Re Scappoose Drainage Dist., (1925) 115 Or 541, 237 P 684, 1117, 1118, 239 P 193.

A landowner could not complain that, though the plan for a ditch did not so provide, earth excavated was placed on the land of another owner to serve as a barrier against high water. Arstill v. Fletcher, (1920) 95 Or 308, 187 P 854.

One signing a petition for establishment of a drainage district was not heard to complain that he signed with the understanding that certain land excluded by the county court was to be included therein. Rees v. Valley View Drainage Dist., (1921) 101 Or 65, 199 P 178.

A finding that lands will be benefited, not having been appealed from, created a presumption that all lands included in the district will benefit from the improvement. Re Scappoose Drainage Dist., (1925) 115 Or 541, 237 P 684, 239 P 193.

### 547.225

CASE CITATIONS: Re Scappoose Drainage Dist., (1925) 115 Or 541, 237 P 684, 1117, 1118, 239 P 193; Delta Farms v. Scappoose Drainage Dist., (1955) 206 Or 99, 288 P2d 816, 291 P2d 762.

ATTY. GEN. OPINIONS: Authority of drainage districts to levy assessments on county roads, 1966-68, p 140.

### 547.235

#### NOTES OF DECISIONS

The state and its instrumentalities have no power to subject the lands of federal sovereign to assessment. Peninsula Drainage Dist. 2 v. Portland, (1958) 212 Or 398, 320 P2d 277.

ATTY. GEN. OPINIONS: Authority of drainage districts to levy assessments on county roads, 1966-68, p 140.

### 547.240

ATTY. GEN. OPINIONS: Authority of drainage districts to levy assessments on county roads, 1966-68, p 140.

### 547.245

ATTY. GEN. OPINIONS: Authority to redeem warrants without reference to time of presentment, 1934-36, p 748; authority of drainage districts to levy assessments on county roads, 1966-68, p 140.

### 547.305

#### NOTES OF DECISIONS

Landowners were entitled to enjoin construction of levee on their lands. Stafford v. Multnomah County Drainage Dist. 1, (1922) 103 Or 197, 204 P 158.

Land was condemned for drainage works by following the procedure prescribed by this section. Re Scappoose Drainage Dist., (1925) 115 Or 541, 237 P 684, 1117, 1118, 239 P 193.

ATTY. GEN. OPINIONS: Application to districts of taxes and regulations administered by Public Utility Commissioner, 1962-64, p 158.

LAW REVIEW CITATIONS: 45 OLR 281; 46 OLR 134.

### 547.310

#### NOTES OF DECISIONS

In determining a dispute as to the propriety of the action of district officers, much must be left to the officers' judgment in executing the plan for improvement. Arstill v. Fletcher, (1920) 95 Or 308, 318, 187 P 854.

ATTY. GEN. OPINIONS: Competitive bidding requirements, 1962-64, p 100.

### 547.325

LAW REVIEW CITATIONS: 45 OLR 281, 283.

### 547.420

#### NOTES OF DECISIONS

\*ORS 547.410 and 547.415 and this section do not authorize county drainage district to claim lien to recover cost of constructing bridge. Skyport Properties v. Mult. Co. Drainage Dist. No.1, 117 Or App 427, 844 P2d 909 (1992), Sup Ct **review denied**.

### 547.455 to 547.485

ATTY. GEN. OPINIONS: Authority of drainage districts to levy assessments on county roads, 1966-68, p 140.

## ANNOTATIONS

**547.455**

### NOTES OF DECISIONS

The board of supervisors could levy more than one tax. *State v. Bishop*, (1942) 169 Or 448, 127 P2d 736.

The levy of assessments by a drainage district is not the exercise of the power of general taxation, but an apportionment of costs of construction, operation and maintenance of works to parcels of land continuously benefited thereby, and may be made upon real property in the possession of the United States. *United States v. Aho*, (1946) 68 F Supp 358.

The state and its instrumentalities have no power to subject the lands of federal sovereign to assessment. *Peninsula Drainage Dist. 2 v. Portland*, (1958) 212 Or 398, 320 P2d 277.

FURTHER CITATIONS: *United States v. Florea*, (1945) 68 F Supp 367.

ATTY. GEN. OPINIONS: When the state, as mortgagee, accepts a conveyance of title in satisfaction of mortgage debt, the mortgage as extinguished, 1942-44, p 219; drainage district assessments imposed on state-owned land or land mortgaged to state to secure a rural credit fund loan, 1942-44, p 219; land owned by an irrigation or drainage district in a proprietary capacity as subject to district assessments which may not be canceled, 1942-44, p 122; constitutionality of taxing district property, 1964-66, p 391.

**547.460**

ATTY. GEN. OPINIONS: Constitutionality of taxing district property, 1964-66, p 391; authority of drainage districts to levy assessments on county roads, 1966-68, p 140.

**547.465**

### NOTES OF DECISIONS

The growth of native wild grass did not constitute a use of land for growing crops. *Delta Farms v. Scappoose Drainage Dist.*, (1955) 206 Or 99, 288 P2d 816, 291 P2d 762.

**547.565**

CASE CITATIONS: *Poknapatawpha Drainage Dist. 2 v. United States*, (1957) 242 F2d 925.

ATTY. GEN. OPINIONS: When the lien of bonds issued by drainage district is prior to the lien of a mortgage on lands within the districts, given to secure payments of a loan from the Irreducible School Fund, 1936-38, p 301.

**547.760**

ATTY. GEN. OPINIONS: Constitutionality of voter qualification, (1968) Vol 34, p 263.

LAW REVIEW CITATIONS: 4 WLJ 491.

## Chapter 548 Provisions Applicable Both to Drainage Districts and to Irrigation Districts

**548.010**

### NOTES OF DECISIONS

The term "lands" includes easements as well as lands which are held by fee simple title. *Warm Springs Irr. Dist. v. Pac. Live Stock Co.*, (1921) 270 Fed 560.

**548.105 to 548.115**

### NOTES OF DECISIONS

This Act was intended to apply even though the judgment of the court might invalidate the action of the board. *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 150.

This Act was taken from California law and the decisions of that court are highly persuasive. *Id.*

**548.105**

### NOTES OF DECISIONS

The scope of the decree includes judicial examination as to the regularity and legality of: (1) the organization proceedings; (2) the issue and sale of the bonds of the district; (3) the order of the county court declaring the organization of the district; (4) the declaration of the result of any district election; (5) the order of the board including in or excluding land from the district; (6) the order of such board levying any assessment; (7) the issue of any bonds or determining any bond issue; (8) the legality of proceedings authorizing a contract

with the United States. *Twohy Bros. Co. v. Ochoco Irr. Dist.*, (1923) 108 Or 1, 210 P 873, 216 P 189.

FURTHER CITATIONS: *Payette-Ore. Slope Irr. Dist. v. Peterson*, (1915) 76 Or 630, 149 P 1051; *Re Grants Pass Irr. Dist.*, (1918) 87 Or 643, 171 P 486; *Re North Unit Irr. Dist.*, (1920) 95 Or 520, 187 P 839; *Harney Valley Irr. Dist. v. Weittenhiller*, (1921) 101 Or 1, 198 P 1093; *Re Application of Riggs*, (1922) 105 Or 531, 207 P 175, 210 P 217; *Re Scappoose Drainage Dist.*, (1925) 115 Or 541, 237 P 684, 239 P 193; *Noble v. Yancy*, (1925) 116 Or 356, 241 P 335; *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 150.

**548.110**

### NOTES OF DECISIONS

Jurisdiction is acquired by the filing of the petition and the giving of notice. *Harney Valley Irr. Dist. v. Bolton*, (1923) 109 Or 486, 221 P 171.

Since the proceedings are in rem, the landowners affected are bound thereby, notwithstanding the fact that there has been no personal service upon them. *Id.*

It is the intention of this Act that notice should be given at the direction of the court, without limitation of time. *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 163.

The decree not having been appealed from was res judicata. *Johnson v. Warm Springs Irr. Dist.*, (1926) 118 Or 239, 246 P 527; *Weber v. Jordan Valley Irr. Dist.*, (1923) 109 Or 426, 220 P 146.

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FURTHER CITATIONS: *Noble v. Yancy*, (1925) 116 Or 356, 363, 241 P 335.

ATTY. GEN. OPINIONS: Regarding sufficiency of notice and summons, 1930-32, p 379, 1936-38, p 71.

### 548.115

#### NOTES OF DECISIONS

The 30 days limitation under this section is not applicable to the action of the board of directors in granting an option for the sale of bonds of the district. *Young v. Gard*, (1929) 129 Or 534, 277 P 1005.

Action of directors in giving option for sale of bonds is not one of the powers given the directors by statute. *Id.*

This section grants an assessment payor the right to contest the validity of the board's assessment order. *Todd v. Bigham*, (1964) 238 Or 374, 390 P2d 168, 395 P2d 150.

### 548.205

ATTY. GEN. OPINIONS: Sufficiency of resolution of supervisors of drainage district to warrant certification of bonds, 1920-22, p 469; state's obligation to pay bonds or irrigation and drainage districts which have been certified, 1920-22, p 471.

### 548.210

ATTY. GEN. OPINIONS: Approval by State Reclamation Commission of contracts between drainage districts and agencies of the United States prior to certification of bonds issued by districts, 1934-36, p 499; regarding statute under which certification of bond issue of drainage district should be made, 1926-28, p 361.

### 548.215

ATTY. GEN. OPINIONS: Basis of certification of bond issue of drainage district, 1928-30, p 258; necessity that the State Reclamation Commission proceed to carry out an investigation and procure a written report before making findings, 1936-38, p 71.

### 548.365

ATTY. GEN. OPINIONS: Authority of State Reclamation Commission to appoint a particular individual as trustee, with authorities and powers conveyed in a resolution and escrow agreement upon deposit of bonds of that irrigation district with the State Reclamation Commission as depository, 1934-36, p 645.

LAW REVIEW CITATIONS: 3 WLJ 303, 311.

### 548.400

ATTY. GEN. OPINIONS: Authority of commission to furnish to irrigation districts the addresses of bondholders whose securities have been deposited with the commission, 1934-36, p 47; treatment of application requesting permission to store water, 1950-52, p 206.

### 548.605

#### NOTES OF DECISIONS

This section was not unconstitutional as being a special or local law under Ore. Const. Art. IV, §23. *Evert v. Ore. Colonization Co.*, (1927) 123 Or 225, 261 P 443.

The purpose of this section is to empower districts to enforce payment of taxes. *Horsefly Irr. Dist. v. Hawkins*, (1927) 121 Or 366, 254 P 825.

A certificate for district taxes should issue where other taxes have been paid. *Horsefly Irr. Dist. v. Hawkins*, (1927) 121 Or 366, 254 P 825; *Horsefly Irr. Dist. v. Hawkins*, (1928) 127 Or 176, 271 P 194.

A district is placed in the position of an individual in respect of demanding a certificate of delinquency, except that it need not pay penalties or interest or the taxes assessed in favor of itself; the law does not preclude the foreclosure of certificates of delinquency issued by the sheriff. *Klamath County v. Colonial Realty Co.*, (1932) 139 Or 311, 7 P2d 976.

Lien of bondholders on the lands was not impaired by foreclosure of certificates of delinquency. *State v. McClain*, (1931) 136 Or 53, 298 P 211.

FURTHER CITATIONS: *Daly v. Horsefly Irr. Dist.*, (1933) 143 Or 441, 21 P2d 787.

### 548.610 to 548.675

CASE CITATIONS: *Murphy v. Clackamas County*, (1954) 200 Or 423, 264 P2d 1040, 266 P2d 1065.

### 548.610

#### NOTES OF DECISIONS

Not having received water was a defense to suit to foreclose tax certificates for assessments. *Enterprise Irr. Dist. v. Enterprise Land Co.*, (1931) 137 Or 468, 300 P 507.

FURTHER CITATIONS: *Evert v. Ore. Colonization Co.*, (1927) 123 Or 225, 261 P 443; *Horsefly Irr. Dist. v. Hawkins*, (1928) 127 Or 176, 271 P 194; *Daly v. Horsefly Irr. Dist.*, (1933) 143 Or 441, 21 P2d 787.

### 548.655

CASE CITATIONS: *Peninsula Drainage Dist. 2 v. Portland*, (1958) 212 Or 398, 320 P2d 277.

### 548.705

#### NOTES OF DECISIONS

Classification of irrigation districts by state courts as municipal corporations or public bodies did not prevent the legislature from passing statutes permitting them to act under the terms of the Federal Bankruptcy Acts. *Re Summer Lake Irr. Dist.*, (1940) 33 F Supp 504.

LAW REVIEW CITATIONS: 20 OLR 316; \*50 WLR 465 (2014).

### 548.810

ATTY. GEN. OPINIONS: Power of commission excluding lands from a drainage district to refund money paid by land holders, 1930-32, p 643; authority of commission to issue easement deed, 1936-38, p 595; authority to expend funds for publication of irrigation and drainage district laws, 1938-40, p 138.

### 548.900 to 548.955

\*See annotations under ORS 547.760 in permanent edition.



## ANNOTATIONS

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### Chapter 551 Diking Districts

#### Chapter 551

ATTY. GEN. OPINIONS: Levy by district for maintenance costs, 1962-64, p 59.

LAW REVIEW CITATIONS: 47 OLR 16-70.

#### 551.010

ATTY. GEN. OPINIONS: Levy for maintenance costs of district, 1962-64, p 59.

#### 551.020

LAW REVIEW CITATIONS: 45 OLR 281.

#### 551.060

ATTY. GEN. OPINIONS: Regarding the county court's authority to contribute to construction of dikes, 1940-42, p 239.

#### 551.090

LAW REVIEW CITATIONS: 47 OLR 64; 4 WLJ 563.

#### 551.100

ATTY. GEN. OPINIONS: Levy for maintenance costs of district, 1962-64, p 59.

#### 551.160

#### NOTES OF DECISIONS

Decision as to organization of district as a diking district or drainage district was with landowners. Re Scappoose Drainage Dist., (1925) 115 Or 541, 237 P 684, 1117, 1118, 239 P 193.

#### 551.170

ATTY. GEN. OPINIONS: Levy for maintenance costs of district, 1962-64, p 59.

### Chapter 553 Water Control Districts

#### Chapter 553

ATTY. GEN. OPINIONS: Service district for flood control within cities, 1964-66, p 320.

\*District authority to regulate use of power boats on water it impounds, (1971) Vol 35, p 900.

LAW REVIEW CITATIONS: 45 OLR 282, 284; 47 OLR 16-70.

#### 553.010

ATTY. GEN. OPINIONS: Constitutionality of voter qualification, (1968) Vol 34, p 263.

LAW REVIEW CITATIONS: 45 OLR 282.

#### 553.020

ATTY. GEN. OPINIONS: Applicability of Local Budget Law to districts, 1964-66, p 104.

#### 553.090

#### NOTES OF DECISIONS

\*Where district fails to follow proper condemnation process, suit for inverse condemnation must have basis other than mere statutory violation. City of Keizer v. Lake Labish Water Control District, 185 Or App 425, 60 P3d 557 (2002), Sup Ct **review denied**.

ATTY. GEN. OPINIONS: Applicability of Local Budget Law to districts, 1964-66, p 104; constitutionality of voter qualification, (1968) Vol 34, p 263; auditing district account, (1969) Vol 34, p 486.

LAW REVIEW CITATIONS: 3 WLJ 279.

#### 553.210 to 553.290

ATTY. GEN. OPINIONS: Applicability of Local Budget Law to districts, 1964-66, p 104.

#### 553.210

ATTY. GEN. OPINIONS: Constitutionality of voter qualification, (1968) Vol 34, p 263.

#### 553.270

#### NOTES OF DECISIONS

\*Where district fails to follow proper condemnation process, suit for inverse condemnation must have basis other than mere statutory violation. City of Keizer v. Lake Labish Water Control District, 185 Or App 425, 60 P3d 557 (2002), Sup Ct **review denied**.

#### 553.625

ATTY. GEN. OPINIONS: Constitutionality of voter qualification, (1968) Vol 34, p 263.

#### 553.760

#### NOTES OF DECISIONS

\*Contract provision reciting distribution of costs between properties was sufficient recital to establish intent to allocate water right formerly belonging to single property and portion of right now belonging to each property. Wayt v. Buerkel, 128 Or App 222, 875 P2d 499 (1994), **as modified by** 129 Or App 119, 876 P2d 868 (1994).

**Chapter 554**  
**Corporations for Irrigation, Drainage,**  
**Water Supply or Flood Control**

**Chapter 554**

NOTES OF DECISIONS

\*Water improvement district formed under this chapter is unit of government for purposes of filing suit under ORS 305.583, but is not “governmental unit” within meaning of section 11b, Article XI of Oregon Constitution. *Comeaux v. Water Wonderland Improvement Dist.*, 12 OTR 132 (1992), **aff’d** 315 Or 562, 847 P2d 841 (1993).

ATTY. GEN. OPINIONS: Constitutionality of proposal to amend this chapter, 1950-52, p 113; authority of improvement district to construct sewage disposal plant, 1952-54, p 37; district improvement company as a political subdivision of the state, 1958-60, p 241; application to improvement companies of law requiring public contractors to pay prevailing wage, 1958-60, p 317; taxation of interest on district obligations, 1962-64, p 77.

\*Authority of State Land Board to enter into nonprofit water supply district corporation, (1978) Vol 38, p 2199.

LAW REVIEW CITATIONS: 45 OLR 281; 47 OLR 16-70.

**554.010 to 554.340**

ATTY. GEN. OPINIONS: District improvement company as a political subdivision of the state, 1958-60, p 241.

**554.010**

ATTY. GEN. OPINIONS: Authority of the State Land Board to join in the formation of a nonprofit improvement district corporation, 1942-44, p 77; authority of improvement district to construct a sewage disposal plant, 1952-54, p 37.

LAW REVIEW CITATIONS: 45 OLR 281.

**554.020**

NOTES OF DECISIONS

A district improvement company is a quasi public corporation. *Nelson v. McAllister Dist. Imp. Co.*, (1936) 155 Or 95, 62 P2d 950.

FURTHER CITATIONS: *Tyree v. Crystal Dist. Imp. Co.*, (1913) 64 Or 251, 126 P 605.

LAW REVIEW CITATIONS: 25 OLR 180.

**554.040**

ATTY. GEN. OPINIONS: Authority of improvement district to construct sewage disposal plant, 1952-54, p 37.

**554.050**

ATTY. GEN. OPINIONS: Interpretation of “sanitary purposes,” 1952-54, p 37; district improvement company as a political subdivision of the state, 1958-60, p 241.

**554.070**

ATTY. GEN. OPINIONS: Constitutionality of voter qualification, (1968) Vol 34, p 263.

**554.080**

NOTES OF DECISIONS

\*Corporation incorporated under this chapter has power to improve and repair irrigation ditches and to enter land of members for that purpose. *Davis v. Nye Ditch Users Improvement District*, 247 Or App 266, 268 P3d 778 (2011).

CASE CITATIONS: *Nelson v. McAllister Dist. Imp. Co.*, (1936) 155 Or 95, 62 P2d 950.

**554.110**

NOTES OF DECISIONS

\*Corporation incorporated under this chapter has power to improve and repair irrigation ditches and to enter land of members for that purpose. *Davis v. Nye Ditch Users Improvement District*, 247 Or App 266, 268 P3d 778 (2011).

\*Corporation incorporated under chapter is not required to acquire water or property rights in order to operate or maintain irrigation works. *Davis v. Nye Ditch Users Improvement District*, 247 Or App 266, 268 P3d 778 (2011).

**554.120**

NOTES OF DECISIONS

\*Right to inspect record of proceedings includes right to receive copy of record upon payment of appropriate fee. *Miller v. Water Wonderland Improvement District*, 326 Or 306, 951 P2d 720 (1998).

**554.130**

NOTES OF DECISIONS

\*Notwithstanding collection process, water district corporation assessments are not taxes. *Miller v. Dept. of Revenue*, 14 OTR 176 (1997), **aff’d** 326 Or 527, 953 P2d 72 (1998).

**554.180**

NOTES OF DECISIONS

Noncompliance with a former similar statute precluded improvement company from contesting inclusion of its lands within irrigation district. *Re Bd. of Directors of North Unit Irr. Dist.*, (1919) 91 Or 33, 178 P 186.

**554.270**

NOTES OF DECISIONS

\*Where water systems, for which nonprofit corporation sought exemption under ORS 554.320, did not and could not legally serve land described in articles of incorporation pursuant to this section, corporation was

## ANNOTATIONS

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not entitled to exemption. Sal La Sea Dist. Imp. Co. v. Dept. of Rev., 7 OTR 436 (1978).

### 554.320

#### NOTES OF DECISIONS

\*Where water systems, for which nonprofit corporation sought exemption under this section, did not and could not legally serve land described in articles of incorporation pursuant to ORS 554.270, corporation was

not entitled to exemption. Sal La Sea Dist. Imp. Co. v. Dept. of Rev., 7 OTR 436 (1978).

### 554.430

CASE CITATIONS: Nelson v. McAllister Dist. Imp. Co., (1936) 155 Or 95, 62 P2d 950.

